

permit by the Plant Protection and Quarantine (PPQ) program of USDA's Animal and Plant Health Inspection Service (APHIS) under § 319.37–3(a)(5).

It has recently come to our attention that articles of *Pelargonium* spp. and *Solanum* spp. can serve as vectors for the transmission of potato brown rot. Potato brown rot is caused by a bacterium, *Ralstonia solanacearum*; race 3 of this bacterium affects the potato (*Solanum tuberosum* L.). This bacterium is widely distributed in temperate areas of the world, including some parts of the United States. It causes potatoes to rot through, making them unusable and seriously affecting potato yields. The bacterium is extremely difficult to eradicate both because of its many alternate hosts and because of its ability to survive in water. Letting an infected field lie fallow or using alternate, non-potato crops for a growing season is not effective, as the bacterium survives in various common weeds, including *Solanum* species such as nightshade. The bacterium can also be transmitted from infected fields to other fields by streams and runoff.

At least three biovars of *R. solanacearum* race 3 are distinguished on the basis of biochemical properties. Biovar 1, which is currently established in the United States, does not tolerate cold temperatures; its establishment is thus limited to the southern part of the United States. However, biovar 2, which is not present in the United States, is adapted to low temperatures and is found in temperate zones, meaning that it could thrive in the northern States where most U.S. potatoes are produced.

Because of the danger *R. solanacearum* race 3 biovar 2 poses to U.S. potatoes, it is listed in our regulations in 7 CFR 331.3(a) as a biological agent capable of posing a severe threat to plant health or plant products; accordingly, the possession, use, and transfer of *R. solanacearum* race 3 biovar 2 is subject to the restrictions in part 331. If *R. solanacearum* race 3 biovar 2 were to become established in the United States, it would likely have a devastating impact on potato production.

In 1999, *R. solanacearum* race 3 biovar 2 was detected on geranium cuttings in greenhouses in Pennsylvania, Delaware, New Jersey, New York, South Dakota, and Wisconsin. These detections were traced back to a production facility in Guatemala that was found to have *R. solanacearum* race 3 biovar 2 on its premises. PPQ inspectors found that the production facility in question and its parent "mother stock" facility in California took adequate measures to

ensure that the *Pelargonium* spp. cuttings the Guatemala facility exported to the United States were not infected with the *R. solanacearum* race 3 biovar 2 bacterium. More recently, in February 2003, *R. solanacearum* race 3 biovar 2 was detected at nursery facilities that had received suspect geraniums from Kenya. As of March 20, 2003, there have been positive confirmations in 48 establishments, including 2 rooting stations, located in 17 States (Alabama, Delaware, Georgia, Iowa, Illinois, Indiana, Kansas, Maryland, Michigan, Minnesota, Missouri, North Carolina, New Hampshire, South Carolina, Tennessee, Virginia, and Wisconsin), and samples from plants with symptoms continue to arrive at USDA laboratories after screening at State or university diagnostic laboratories.

The regulations have not included specific provisions to ensure that articles of *Pelargonium* spp. offered for importation into the United States are not infected with the *R. solanacearum* race 3 biovar 2 bacterium. In addition, *R. solanacearum* race 3 biovar 2 can spread to uninfected potatoes via many articles of the genus *Solanum*, but the regulations have not included provisions to ensure that non-tuber-bearing *Solanum* spp., which may be imported into the United States with a written permit as described above, are not infected with the *R. solanacearum* race 3 biovar 2 bacterium.

Therefore, we are amending the regulations to require that an additional declaration appear on the phytosanitary certificate that must accompany all articles of *Pelargonium* spp. and *Solanum* spp. imported into the United States, except those imported under the Canadian greenhouse-grown restricted plant program. The additional declaration must state either that *R. solanacearum* race 3 biovar 2 is not known to occur in the region in which the articles in the consignment were produced or that the production facility in which the articles in the consignment were produced has been tested and found to be free of *R. solanacearum* race 3 biovar 2.

R. solanacearum race 3 biovar 2 is currently not known to occur in the following foreign regions: Algeria, Austria, Belarus, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Greece, Ireland, Israel, Italy, Latvia, Lithuania, Moldavia, Morocco, Norway, Poland, Portugal, Romania, Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tunisia, and Ukraine.

Production facilities outside of those regions wishing to export articles of *Pelargonium* spp. or *Solanum* spp. to

the United States must be tested for *R. solanacearum* race 3 biovar 2 using a method acceptable to APHIS. We are currently aware of two acceptable testing methods: An enzyme-linked immunosorbent assay that can confirm that no *Ralstonia* spp. bacteria are present, and a polymerase chain reaction test that can confirm that no *R. solanacearum* race 3 biovar 2 bacteria are present. Other testing methods may be used if those methods are adequate to confirm that production facilities are free of *R. solanacearum* race 3 biovar 2.

We will continue to allow articles of *Pelargonium* spp. and *Solanum* spp. produced in Canada under the greenhouse-grown restricted plant program described in paragraph (c) of § 319.37–4 to be imported into the United States with the inspection label issued in accordance with that paragraph. The Canadian greenhouse-grown restricted plant program mandates pest and disease control practices, provides extensive information on greenhouses in Canada exporting to the United States, and requires a certification statement reading "This shipment of greenhouse grown plants meets the import requirements of the United States, and is believed to be free from injurious plant pests. Issued by Plant Protection Division, Agriculture Canada." Because *R. solanacearum* race 3 biovar 2 is not known to occur in Canada, and because these additional controls are in place, we believe that restricted articles grown under this program may be safely imported without the phytosanitary certificate and additional declaration.

We are also adding articles of *Pelargonium* spp. and *Solanum* spp. that do not meet the requirements of the new paragraph § 319.37–5(r) of the regulations to the list of prohibited articles in § 319.37–2(a) so that inspectors can refuse the entry of any shipment of articles of *Pelargonium* spp. and *Solanum* spp. not meeting these requirements.

This action will help to prevent the introduction of *R. solanacearum* race 3 biovar 2 into the United States while allowing the continued importation of articles that have been determined to be safe.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the importation of articles of *Pelargonium* spp. and *Solanum* spp. that come from regions where *R. solanacearum* race 3 biovar 2 is known to occur and that have been produced in facilities that may not be free of that bacterium. Because these articles may serve as