

vectors for *R. solanacearum* race 3 biovar 2, allowing their importation to continue without specific restrictions would pose an unacceptable risk of introducing of *R. solanacearum* race 3 biovar 2 into 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 rule 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 rule has been reviewed under Executive Order 12866. The 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.

Prior to the publication of this interim rule, articles of *Pelargonium* spp. (geraniums) and articles of non-tuber-bearing *Solanum* spp. such as eggplants were being imported into the United States with few restrictions. (Imports of tuber-bearing *Solanum* spp. from any region other than parts of Canada are prohibited by § 319.37–2.) Apart from the certification requirements of § 319.37–4 described previously, the only restriction on the importation of articles of *Pelargonium* spp. and non-tuber-bearing *Solanum* spp. was that lots of 13 or more required a written permit from PPQ. Recently, APHIS became aware 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, *R. solanacearum* race 3 biovar 2. This bacterium is widely distributed in temperate areas of the world and could cause severe damage to U.S. production of potatoes if it were to become established in the United States. In 2001, 1.2 million acres of potatoes were harvested in the United States. The U.S. potato harvest that year was valued at \$2.9 billion, with \$90 million worth of U.S. potatoes exported to the rest of the world.<sup>1</sup> The bacterium causes the potatoes to develop unsightly brown

rings in their tubers, making them worthless for human consumption. If U.S. potato fields were to become infected with this strain of *R. solanacearum*, their value could be drastically reduced, if not completely eliminated, due to the bacterium's ability to resist eradication. Furthermore, U.S. producers would most likely be required to quarantine their fields and destroy any potatoes present to prevent the spread of the disease.

The United Kingdom has experienced five outbreaks of potato brown rot that have had minor impacts on overall potato production, losses equivalent to less than a fraction of a percentage point of the total value of the potato industry in the United Kingdom.<sup>2</sup> However, certain areas in South America have endured potato losses ranging from 5 percent to 100 percent due to potato brown rot. If potato brown rot was to become established in the United States, the potato industry could potentially lose hundreds of millions of dollars due to direct crop losses and indirect losses from quarantines and diminished export markets.

#### *Pelargonium* (geranium) spp.

U.S. floriculture and nursery crop sales based on grower's receipts were \$14 billion in 2002. Total sales of U.S. geraniums were estimated at \$204 million for 2002.<sup>3</sup> The United States imported \$44 million worth of cuttings and slips, of which geraniums comprised some unknown part.<sup>4</sup> No specific data are available for geranium plant imports; cuttings most likely comprise the bulk of imports of geranium articles.

#### *Solanum* spp.

The genus *Solanum* comprises a large group of both tender and hardy, herbaceous shrubby climbing plants. Several species can be found in North America either growing wild or as decorative plants, but two—potatoes and eggplants—are grown as vegetables. Imports of potatoes are largely prohibited, except for imports from parts of Canada, which totaled \$67 million worth of potatoes in 2001. Under this interim rule, Canadian potatoes will continue to be able to enter the United States with the certification required by the greenhouse-

grown restricted plant program or with a phytosanitary certificate containing an additional declaration. Because Canadian potatoes imported for propagation must be accompanied by a phytosanitary certificate attesting to their region of origin to be eligible for importation into the United States, this rule is not expected to impose significant additional costs on their importation.

The United States imported \$11 million worth of eggplants in 2001. Imports of eggplants and potatoes account for less than 3 percent of the value of overall U.S. production.

This interim rule will continue to allow imports of articles of *Pelargonium* spp. and *Solanum* spp. subject to specific certification requirements. This interim rule will have an insignificant impact on imports of articles of *Pelargonium* spp. and *Solanum* spp., while safeguarding U.S. agriculture from *R. solanacearum* race 3 biovar 2.

#### Impact on Small Entities

The Regulatory Flexibility Act requires that agencies specifically consider the economic effects of their rules on small entities. The Small Business Administration (SBA) classifies nursery and tree production businesses (North American Industry Classification System code 111421) as small entities if their annual sales receipts are \$750,000 or less. According to the National Agricultural Statistics Service (2001), 1,691 floriculture operations out of a total of 10,965 operations had sales of \$500,000 or more. Therefore, at least 85 percent of all floriculture operations can be classified as small entities, and it is likely that an even higher percentage can be classified as small entities due to the \$250,000 discrepancy.<sup>5</sup>

This interim rule will continue to allow imports of articles of *Pelargonium* spp. and *Solanum* spp. as long as the facility in which they were produced has been found to be free of *R. solanacearum* race 3 biovar 2 or the bacterium is not known to occur in the region in which they were produced. All such articles are currently required by § 319.37–4 to be accompanied by a phytosanitary certificate of inspection when imported into the United States; the expected cost of obtaining the certification for the additional declaration is expected to be minor compared both to the value of shipments of articles of *Pelargonium* spp. and *Solanum* spp. and compared to

<sup>2</sup> United Kingdom Department for Environment, Food and Rural Affairs.

<sup>3</sup> Electronic Outlook Report from the Economic Research Service, Floriculture and Nursery Crops Outlook, September 12th, 2002, Alberto Jerardo.

<sup>4</sup> World Trade Atlas 2002, U.S. imports of unrooted cuttings and slips of plants, code # 0602100000.

<sup>1</sup> National Agricultural Statistics Service data, U.S. potato production, 2001.

<sup>5</sup> National Agricultural Statistics Service, Agricultural Statistics Board, U.S. Department of Agriculture, 2001 Floriculture Crops.