

likely nonexistent agent, and should not be the subject of regulations.

*Response:* We are planning a risk assessment for roses to evaluate rose wilt and other diseases. We cannot address this issue in the present rule.

*Comment:* APHIS should consider regulating *Phytophthora ramorum* from Europe, *Pseudomonas avellana* from Europe and Asia, and *Anisogramma anomala* from Canada.

*Response:* APHIS is preparing regulations regarding the importation of *Phytophthora ramorum* hosts from Europe. We are also considering whether to take separate action on *Pseudomonas avellana* and *Anisogramma anomala*. We are unable to address these pests in this rule as they are beyond the scope of the proposed rule.

*Comment:* APHIS should consider a complete overhaul of its nursery stock regulations.

*Response:* We are considering whether to make major changes in our nursery stock regulations. If we decide to make such changes, we will publish a separate rule to give the public an opportunity to comment on those changes.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This final 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.

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is set out below, regarding the economic effects of this rule on small entities.

Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of plant pests and noxious weeds.

We are amending the regulations for importing nursery stock to require additional certifications for imported niger seed and lilac, to reflect changes in plant taxonomy and pest distributions, and to make various changes to the requirements for postentry quarantine of imported plants. We are also making several other amendments to update and clarify the regulations and improve their

effectiveness. The potential effects of the changes proposed in this document are discussed below, by topic.

#### *Treatment of Niger Seed*

We are amending the regulations to allow niger seed to be imported into the United States if it is treated at a treatment facility that has been approved by APHIS. Under this amendment, niger seed can be treated: (1) At the time of arrival at the port of first arrival in the United States or (2) prior to shipment to the United States at a treatment facility that has been approved by APHIS. Previously, the regulations in § 319.37–6(d) stated that imported niger seed must be heat treated upon arrival in the United States.

This change could potentially affect U.S. firms that import and treat niger seed. The treatment firms could suffer a loss in revenue, but we believe that there are only two such firms in the United States, and at least one of those firms is not small in size according to Small Business Administration (SBA) criteria. It is likely that the other treatment firm, whose size is unknown, will not be significantly affected, because niger seed treatment likely accounts for only a small portion of the firm's overall revenues. However, since we are unable to estimate the amount of niger seed that would be treated prior to shipment to the United States, we cannot determine the effect this rule will have on domestic firms that treat niger seed.

As a group, importers in the United States will likely be unaffected by this change, since it is not likely to affect the overall volume of niger seed imported into the United States. However, this change could result in new marketing and distribution channels that could benefit some importers at the expense of others. We estimate that there are fewer than 20 importers of niger seed in the United States. However, data on the importers' size are not available, although we expect at least some of the importers are likely to be small according to SBA criteria.

We are also amending the heat treatment schedule for imported niger seed. However, since the amendment to the treatment schedule only involves a change in the required treatment temperature, and no change in the type or duration of the treatment, we anticipate that existing treatment facilities will not be affected by that change.

#### *Lilac From the Netherlands*

This rule allows the importation of lilac from the Netherlands under new

conditions due to the Netherlands' request for an alternative to the use of methyl bromide as a fumigant of soil for lilac to be exported to the United States. This change should have no effect on the volume of lilac imported from the Netherlands, since it simply provides a new mechanism for Dutch exporters to ship lilac without fumigating the soil in which it is grown and, therefore, should have no effect on U.S. entities, whether small or large.

#### *Mango Seeds From the British Virgin Islands, Grenada, Trinidad and Tobago, and St. Vincent and the Grenadines*

This rule prohibits the importation of mango seeds from the British Virgin Islands, Grenada, Trinidad and Tobago, and St. Vincent and the Grenadines due to the risk of introducing the mango seed weevil, *Sternonchetus mangiferae*, into the United States. This change should have little or no effect on U.S. consumers, importers, or producers, due to the fact that the United States has historically imported a very small volume of mangoes and mango seeds from those countries. Between September 1, 1997, and May 31, 1998, the value of U.S. imports of fresh mangoes (with seeds intact) from Trinidad and Tobago and Grenada was approximately \$20,000, or approximately 1 percent of the value of U.S. fresh mango imports from all countries combined during that period. During the same period, the United States imported no mangoes or mango seeds from St. Vincent and the Grenadines. Data on imports of mango seeds or fruit from the British Virgin Islands are not available. Furthermore, the United States imported no seeds, fruit, or spores for propagation from Trinidad and Tobago in 1997.

#### *Willow From Belgium and Japan*

This rule prohibits the importation of willow plants and plant parts from Belgium and Japan due to the risk of introducing the watermark disease of willow into the United States.

The United States has historically imported a very small volume of willow plants and plant parts from Belgium and Japan. The value of live trees and plants, including willow plants, imported into the United States from Belgium and Japan in 1997 totaled only \$3 million, or less than 1 percent of the value of U.S. live tree and plant imports from all countries combined that year. Since willow plants compose only a small fraction of the plants imported from Belgium and Japan, this change should have little or no effect on U.S. consumers, importers, or producers.