

characterized as elastic. While pallets made of alternative materials such as plastic, corrugated fiberboard, or processed wood are imperfect substitutes for wood, one wood pallet can easily substitute for another wood pallet.

Assuming a perfectly elastic supply and perfectly inelastic demand for imported pallets, and assuming a treatment cost that adds about \$2 on average to a pallet, U.S. purchasers of imported pallets could lose an estimated \$76 million in higher costs. The true extent of the impact however would be lower than this amount because demand is likely to be elastic and foreign importers are expected to share a greater burden of the cost increase. We do not know treatment costs for foreign pallet producers, but given the availability of substitutable domestic wood pallets, we do not expect U.S. purchasers of imported pallets to be significantly impacted.

The adoption of this rule would indirectly affect manufacturers who sell pallets, crates and boxes to foreign buyers. There are an estimated 3,000 manufacturers of pallets and containers in the United States. The primary importers of these items are Canada and Mexico. As these two countries prepare to implement the IPPC standard in 2003, only treated wood packing materials would likely be in demand for export. The extent of the impact on pallet and container manufacturers would depend on the ability of individual firms to put in place the necessary infrastructure for conducting treatments as required by the international standard. The number of firms that engage in export and would therefore be impacted is unknown. Regardless, the impact on the overall SWPM industry is expected to be small as the quantity of total pallets exported, estimated at about 10 million units, comprises only 2.5 percent of the 400 to 500 million pallets in production in the U.S. each year.

Domestic manufacturers of wood pallets may be indirectly affected in one other way. Because of the increasing trend in recycling of pallets for cost-cutting purposes, manufacturers may be faced with new demands for treated SWPM from domestic exporters who reuse pallets and wood containers to ship goods back from foreign countries. The number of firms affected in this way is unknown and may be large.

In sum, this rule would impact foreign manufacturers of pallets which may, in turn, affect importers and final consumers of goods transported on pallets. Because the cost of a pallet is a very small share of the bundle of goods transported on pallets, cost increases

due to the treatment requirements are not expected to significantly affect domestic consumers and thus would not have a measurable impact on the flow of trade. This rule is not expected to reduce the amount of goods shipped internationally as is evident from observing trends in imports from China since implementation of the interim rule in 1999.

This rule would also affect U.S. consumers of imported pallets. Given the substitutability of wood pallets, the impact on consumers is expected to be small due to the availability of wood pallets. Foreign importers are likely to absorb a greater share of the cost increase.

The simultaneous adoption of the treatment standards by IPPC member countries that is directed at U.S. exports would likely create a broader impact on the domestic wood packaging industry than the provisions of this proposed rule. The adoption of the standard globally would ensure that U.S. producers and exporters are not placed at a competitive disadvantage by this rule as compared to their trading partners.

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### National Environmental Policy Act

An environmental impact statement (EIS) has been prepared for this proposed rule in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the EIS are available for public inspection in our reading room (information on the location and hours of the reading room is provided at the beginning of this proposed rule under the heading **ADDRESSES**). In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

A notice of intent to prepare the EIS was published in the **Federal Register** on August 14, 2002 (67 FR 52893;

Docket No. 02–032–1) and a notice availability of the draft EIS was published in the **Federal Register** on November 15, 2002 (67 FR 69216–69217, Docket No. ER–FRL–6634–9).

#### Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 02–032–2. Please send a copy of your comments to: (1) Docket No. 02–032–2, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OClO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This rule would require persons treating SWPM in accordance with the regulations to apply an internationally recognized mark, and would require the plant protection services of countries where the SWPM is treated to develop procedures to monitor and audit the treatments. The information we propose to collect is the minimum needed to protect the United States from incursion by destructive insect pests and plant diseases. Failing to collect this information would cripple our ability to ensure that SWPM does not harbor destructive plant pests. APHIS inspectors at ports would examine SWPM for the IPPC-approved international mark required by the regulations. Therefore, the international mark is, in effect, a certificate verifying proper treatment. Persons who forge, alter, or fraudulently use the mark would be subject to administrative or criminal penalties.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

- (1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;
- (2) Evaluate the accuracy of our estimate of the burden of the proposed