

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.

#### Executive Order 13132

We have reviewed this proposed rule under Executive Order 13132 and determined that it does not have sufficient federalism implications to warrant the preparation of a federalism assessment. The provisions contained in this proposed rule would not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

The Administrator has examined the federalism implications of the requirements in this proposal, *i.e.*, criteria for determining the Federal share of emergency program costs relative to States and other cooperators in the event of animal or plant pest or disease outbreak in the United States. The Administrator believes that this action adheres to Constitutional principles for the exercise of Federal power and is clearly authorized by statutory authorities delegated to APHIS.

This proposed action focuses primarily on the criteria and cost-sharing percentages that would be used to determine the Federal share of emergency program costs. The proposed rule does not absolutely impose any new compliance costs on States or local governments or require that States or local governments incur new costs in support of emergency programs to prevent, detect, control, or eradicate disease.

APHIS already conducts cooperative control and eradication programs in conjunction with State counterparts and other cooperators. In a cooperative arrangement, program funding is generally shared by APHIS and the State, with each party being financially responsible for a portion of the program costs. The cost-sharing arrangements generally have been the result of case-by-case negotiations between APHIS and cooperators. The funding allocations in these arrangements have varied depending on the specific pest or disease and its location. We believe that establishing criteria, including predetermined percentages of the Federal share of program costs, will foster greater certainty about emergency program cost sharing and facilitate improved planning and funding decisions by the Federal government and its cooperators.

State and local governments have the opportunity to comment on this proposed rule, and we encourage them to submit comments on federalism concerns or any other issues.

#### Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, tribal governments, and the private sector. Under section 202 of the UMRA, APHIS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires APHIS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

We do not expect, based on historical data, that this proposed rule would contain Federal mandates (under the regulatory provisions of Title II of the UMRA) that may result in new expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Thus, this proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### 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. 02-062-1. Please send a copy of your comments to: (1) Docket No. 02-062-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, 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.

The Secretary of Agriculture may, as a condition of providing Federal funding under proposed 7 CFR part 373 and proposed 9 CFR part 60, enter into agreements with States and other cooperating entities. Such agreements would specify the particular responsibilities, including funding obligations, of the Federal Government and cooperators in conducting the emergency program. Such agreements also could impose other information collection and recordkeeping requirements on affected States or other cooperating entities. We are therefore asking OMB to approve, for 3 years, our use of this information collection.

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 information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses).

**Note:** Our estimate below shows a minimal burden of 1 hour total because the need for States or other cooperating entities to enter into such agreements, as described above, would be at the Secretary's discretion. Further, the scope and nature of the potential information collection or recordkeeping burden, if any, would depend on the particular agreement. Therefore, we currently are not collecting information until the Secretary enters into such agreements with cooperators. At that time, we will describe any specific burden, as well as the estimated number of respondents and estimated burden accordingly based on the number of expected respondents.

**Estimate of burden:** Public reporting burden for this collection of information is estimated to average 1.0 hour per response.

**Respondents:** States and other cooperating entities who enter into agreements with the Secretary of Agriculture in connection with an emergency program involving a plant