

Interstate Movement of Municipal Waste From Hawaii to the U.S. Mainland

The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) has announced a proposal to allow, under certain conditions, the interstate movement of municipal solid waste from Hawaii to the continental United States. The proposed requirements, which are detailed in 7 CFR 330.400 and 9 CFR 94.5, were published in the April 19 *Federal Register*.

APHIS developed the proposed rule in response to requests from private waste disposal companies and based it on the scientific evidence from a recent pest risk and environmental assessment. This action would provide Hawaii additional waste disposal options while continuing to protect against the introduction of animal or plant pests into the continental United States.

APHIS regulates the importation and interstate movement of garbage that may pose a risk of introducing or disseminating animal or plant pests that are new or not widely distributed within the United States.

The proposal would require that all regulated garbage, which cannot include agricultural or yard waste, moved interstate from Hawaii to any area of the continental United States be:

- Processed, packaged, safeguarded and disposed of using a methodology that the APHIS Administrator has determined is adequate to prevent the introduction or dissemination of plant pests into noninfested areas of the United States;
- Moved under a compliance agreement between APHIS and the person handling or disposing of the garbage and in accordance with any conditions stipulated to address particular pest risks or environmental hazards; and
- Moved in compliance with all applicable environmental protection laws.

Approved Methods for Interstate Movement

APHIS' pest risk assessment (PRA) entitled, "The Risk of Introduction of Pests to the Continental United States via Plastic-Baled Municipal Solid Waste from Hawaii," evaluated the possibility

of a plant pest introduction by the movement of municipal solid waste that is shredded, compressed, wrapped in adhesive-backed plastic film barriers and shipped under certain safeguards from Hawaii to the continental United States. APHIS' assessment concluded that if the waste is created and transported in baled, airtight packages that remain intact throughout their movement, the risk of introduction and dissemination of plant pests that may be present inside the bales would be mitigated.

Research indicates that insects and pathogens are unlikely to survive in bales because of compression, anoxia (oxygen depletion) and the absence of hosts. Other procedures, such as staging of bales prior to transport, bale construction, monitoring during transport and burial in regulated landfills, would adequately protect against escapes via accidental ruptures and punctures during handling and transport. The risk assessment is available on the Internet at <http://www.regulations.gov>.

Compliance Agreement

Any person handling or disposing of the solid waste must enter into a compliance agreement with APHIS. Since some aspects of the shipping and disposal pathway cannot be evaluated until the actual destination is known, each proposal to move solid waste interstate must be evaluated separately to identify any significant risk factors. Under the proposed regulations, APHIS would only enter into a compliance agreement for the interstate movement of garbage from Hawaii if the pest and environmental risks posed by such movements have been analyzed, subjected to public comment and approved by APHIS.

Environmental Protection

Under the proposed regulations, any movement of municipal solid waste from Hawaii to the U.S. mainland would also have to be in compliance with all applicable environmental protection laws. Although APHIS is not responsible for enforcing specific federal, state and local environmental laws, it is responsible for ensuring that its regulations and programs are subjected to proper analysis under the National Environmental Policy Act of 1969 (NEPA), the Endangered Species Act and other statutes that are intended to protect the environment.

In accordance with NEPA, APHIS prepared an environmental assessment titled, "Movement of Plastic-Bales Municipal Solid Waste from Hawaii to the Continental United States." The assessment

examined the potential environmental effects associated with moving solid waste interstate from Hawaii to U.S. mainland when it is subject to the mitigation measures described in the PRA. A thorough analysis of the risks associated with moving garbage interstate to a specific location in the continental United States is needed to ensure proper evaluation of localized risks, environmental hazards and compliance with NEPA.

Persons seeking to move municipal solid waste interstate from Hawaii using a method other than the one evaluated in the pest risk and environmental assessment may require another environmental assessment or other NEPA analysis.

In addition to these proposed changes, APHIS is also proposing to revise the regulations to clarify their applicability and make them easier to understand.

How Interested Parties Can Submit Comments

Consideration will be given to comments received on or before May 19. Send an original and three copies of postal or commercial delivery comments to Docket No. APHIS-2005-0047, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. If you wish to submit a comment using the Internet, go to the Federal eRulemaking portal at <http://www.regulations.gov> and, in the "Search Regulations and Federal Actions" box, select "Animal and Plant Health Inspection Service" from the agency drop-down menu; then click on "Submit." In the Docket ID column, select APHIS 2005-0047 to submit or view public comments and to view supporting and related materials available electronically.

Comments are posted on the Regulations Web site and may be reviewed at USDA, Room 1141, South Building, 14th St. and Independence Ave.,

Note to Stakeholders: Stakeholder announcements and other APHIS information are available on the Internet. Go to the APHIS home page at <http://www.aphis.usda.gov> and click on the "Publications" button. For more information regarding these regulatory changes, please contact Shannon R. Hamm at (301) 734-4957 or shannon.r.hamm@aphis.usda.gov.

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