

### K. What Is Codification and Is EPA Codifying Utah's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. Utah's rules, up to and including those revised 2/15/96, have previously been codified through the incorporation-by-reference effective 3/15/99 (66 FR 58964, 11/26/2001). We reserve the amendment of 40 CFR part 272, subpart TT for the codification of Utah's updated program until a later date.

### L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211,

"Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective June 9, 2003.

### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by Reference, Indian lands,

Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 25, 2003.

**Robert E. Roberts,**

*Regional Administrator, Region VIII.*

[FR Doc. 03-8833 Filed 4-9-03; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

#### 42 CFR Parts 70 and 71

**RIN 0920-AA03**

#### Control of Communicable Diseases

**AGENCY:** Centers for Disease Control and Prevention (CDC), Public Health Service (PHS), Department of Health and Human Services (HHS).

**ACTION:** Interim final rule with comment period.

**SUMMARY:** The Public Health Service Act authorizes the Secretary, in consultation with the Surgeon General, to make and enforce regulations as are necessary to prevent the introduction, transmission or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. The existing regulations are outdated and do not address communicable diseases that currently pose a substantial public health threat.

As of April 2, 2003, the World Health Organization (WHO) has reported 2236 cases and 78 deaths related to outbreaks of a severe form of pneumonia of unknown origin in Hong Kong SAR, Vietnam, Guangdong province in southern China, Canada, Singapore, and Thailand, which appears to have spread rapidly. For this reason, the Director General of the World Health Organization (WHO) issued a global alert about cases of atypical pneumonia and recommended that travelers with atypical pneumonia who may be related to these outbreaks be placed into isolation and assessed by quarantine officials. The Centers for Disease Control and Prevention (CDC) is currently investigating 85 suspected cases of the disease in the United States. This is being issued as an interim final rule because this newly-detected disease is likely spread in person-to-person fashion and may have an adverse public

health impact if further introduced into the United States.

**DATES:** This rule is effective on April 10, 2003. Comments must be submitted by June 9, 2003.

**ADDRESSES:** Mail written comments to the following address: Jennifer Brooks, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Atlanta, GA 30333; telephone (404) 639-2763. Mail written comments on the proposed information collection requirements to Office of Information and Regulatory Affairs, OMB, New Executive Office Building, 725 17th Street, NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for CDC.

**FOR FURTHER INFORMATION CONTACT:** James E. Barrow, National Center for Infectious Diseases (E03), Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Atlanta, GA 30333; telephone (404) 498-1604.

**SUPPLEMENTARY INFORMATION:**

**Background and Purpose**

This interim final rule, which was reviewed by the Office of Management and Budget in accordance with Executive Order 12866, is being promulgated in accordance with U.S.C. 42 section 264 (section 361 of the PHS Act) which authorizes the Secretary, in consultation with the Surgeon General, to make and enforce regulations as are necessary to prevent the introduction, transmission or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. The quarantine of persons believed to be infected with communicable diseases is a public health prevention measure that has been used effectively to contain the spread of disease. The existing regulations are outdated and do not address communicable diseases that currently pose a substantial public health threat.

The Public Health Service Act gives the Secretary of HHS responsibility for preventing the introduction, transmission, and spread of communicable diseases from foreign countries into the United States and from one State or possession into another within the United States. Under its delegated authority, the CDC Division of Global Migration and Quarantine is empowered to detain, medically examine, or conditionally release individuals suspected of carrying a communicable disease. The list of quarantinable diseases is contained in an Executive Order of the President.

**Waiver of Prior Notice and Comment and Waiver of Delay in Effective Date**

This rule is being issued on an interim final basis with no prior notice and comment and no delay in effective date. As of April 2, 2003, the WHO has reported 2236 cases and 78 deaths of severe pneumonia-like illness of unknown origin in a growing number of countries. Several countries, including Canada, Hong Kong SAR, and Singapore have instituted maximum health measures, including quarantine, to prevent the further spread of the disease. The CDC is currently investigating 85 suspected cases of the disease in the United States. While no deaths have been reported in the United States, the potentially fatal disease is likely spread in person-to-person fashion and may have an adverse public health impact if further spread. Accordingly, appropriate public health control measures including quarantine need to be available immediately to protect against this threat.

**Changes to 42 CFR Parts 70 and 71**

Following is a summary of changes to the current regulations:

Sections modified:

- 70.6 Apprehension and detention of persons with specific diseases.
- 71.32 Persons, carriers, and things.

**Plain Language Instructions**

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Jennifer Brooks at the address listed above.

**List of Subjects**

*42 CFR Part 70*

Communicable diseases, Public health, Quarantine, Reporting and recordkeeping requirements, Travel restrictions.

*42 CFR Part 71*

Airports, Animals, Communicable diseases, Harbors, Imports, Pesticides and pests, Public health, Quarantine, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, we are amending 42 CFR part 70 and Part 71 as follows.

**PART 70—INTERSTATE QUARANTINE**

■ 1. The authority for part 70 is revised to read as follows:

**Authority:** Secs. 215 and 311 of Public Health Service (PHS) Act. as amended (42 U.S.C. 216, 243); secs. 361-369, PHS Act, as amended (42 U.S.C. 264-272).

■ 2. Revise Section 70.6 to read as follows:

**§ 70.6 Apprehension and detention of persons with specific diseases.**

Regulations prescribed in this part authorize the detention, isolation, quarantine, or conditional release of individuals, for the purpose of preventing the introduction, transmission, and spread of the communicable diseases listed in an Executive Order setting out a list of quarantinable communicable diseases, as provided under section 361(b) of the Public Health Service Act. Executive Order 13295, of April 4, 2003, contains the current revised list of quarantinable communicable diseases, and may be obtained at <http://www.cdc.gov>, or at [http://www.archives.gov/federal\\_register](http://www.archives.gov/federal_register). If this Order is amended, HHS will enforce that amended order immediately and update this reference.

**PART 71—FOREIGN QUARANTINE**

■ 1. The authority for part 71 is revised to read as follows:

**Authority:** Secs. 215 and 311 of Public Health Service (PHS) Act. as amended (42 U.S.C. 216, 243); secs. 361-369, PHS Act, as amended (42 U.S.C. 264-272).

■ 2. Revise Section 71.32 to read as follows:

**§ 71.32 Persons, carriers, and things**

(a) Whenever the Director has reason to believe that any arriving person is infected with or has been exposed to any of the communicable diseases listed in an Executive Order, as provided under section 361(b) of the Public Health Service Act, he/she may isolate, quarantine, or place the person under surveillance and may order disinfection or disinfestation, fumigation, as he/she considers necessary to prevent the introduction, transmission or spread of the listed communicable diseases. Executive Order 13295, of April 4, 2003, contains the current revised list of quarantinable communicable diseases, and may be obtained at <http://www.cdc.gov> and [http://www.archives.gov/federal\\_register](http://www.archives.gov/federal_register). If this Order is amended, HHS will enforce that amended order immediately and update this reference.

(b) Whenever the Director has reason to believe that any arriving carrier or article or thing on board the carrier is or may be infected or contaminated with a communicable disease, he/she may require detention, disinfection, disinfestation, fumigation, or other related measures respecting the carrier or article or thing as he/she considers necessary to prevent the introduction, transmission, or spread of communicable diseases.

Dated: April 4, 2003.  
**Tommy G. Thompson**,  
 Secretary.  
 [FR Doc. 03-8736 Filed 4-8-03; 12:42 pm]  
 BILLING CODE 4160-17-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 74

[ET Docket No. 01-75; FCC 02-298]

#### Broadcast Auxiliary Service Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** Federal Communications Commission published in the **Federal Register** of March 17, 2003, a document amending rules for Broadcast Auxiliary Services to introduce new technologies and conforming rules for Broadcast Auxiliary Services, Cable Television Relay Service, and Fixed Microwave Services. Inadvertently, the amendatory instruction for § 74.602 specified removing and revising paragraph (a)(2). This document revises the amendatory instruction to specify removing and reserving paragraph (a)(2).

**DATES:** Effective April 16, 2003.

**FOR FURTHER INFORMATION CONTACT:** Ted Ryder, Office of Engineering and Technology, (202) 418-2803.

**SUPPLEMENTARY INFORMATION:** The FCC published a document in the **Federal Register** of March 17, 2003, (68 FR 12743) inadvertently specifying, in the amendatory instruction for § 74.602, removing and revising paragraph (a)(2). This correction revises the amendatory language to specify removing and reserving paragraph (a)(2).

In rule FR Doc. 03-4176 published on March 17, 2003 (68 FR 12743) make the following correction. On page 12768, in the second column, revise the amendatory instruction for § 74.602 to read as follows:

#### PART 74—[CORRECTED]

##### § 74.602 [Corrected]

■ Section 74.602 is amended by revising paragraphs (a) introductory text, the channel boundaries for channel designation B03 in the table of paragraph (a), footnote 2 of the table of paragraph (a), paragraphs (d), (f), (h), and (i) introductory text, and by removing and reserving paragraph (a)(2) to read as follows:

Federal Communications Commission.  
**Marlene H. Dortch**,  
 Secretary.  
 [FR Doc. 03-8578 Filed 4-9-03; 8:45 am]  
 BILLING CODE 6712-01-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 17, 222 and 226

[Docket No. 030318064-3064-01; I.D. 012903C]

RIN 0648-AQ74

#### Endangered Fish and Wildlife; Notice of Technical Revision to Right Whale Nomenclature and Taxonomy Under the U.S. Endangered Species Act

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS is issuing a final rule concerning the nomenclature and taxonomy of the North Atlantic right whale, North Pacific right whale, and the southern right whale. The first change updates the formerly-used genus *Balaena* to the genus *Eubalaena* to conform to the taxonomy currently accepted by the scientific community and supported by the scientific literature. The second change reflects the genetic distinctiveness now recognized between Pacific and Atlantic right whale populations in the northern hemisphere. Due to recent genetic findings, NMFS is changing the species name of the northern right whale as follows: the North Atlantic right whale, *Eubalaena glacialis*, and the North Pacific right whale, *Eubalaena japonica*. These technical changes will not change the listing status of these species under the Endangered Species Act (ESA)(all three remain "endangered").

**DATES:** Effective on May 12, 2003.

**ADDRESSES:** Supporting documentation is available for public inspection, by request from NMFS, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226.

**FOR FURTHER INFORMATION CONTACT:** Aleria Jensen or Gregory Silber at (301) 713-2322.

**SUPPLEMENTARY INFORMATION:** The right whale was originally described as *Eubalaena glacialis* (Muller, 1776). However, the technical literature on the nomenclature has not been clear over

the course of the last three decades. The species was initially listed as *Eubalaena glacialis* by the U.S. Fish and Wildlife Service in the 1973 Edition of Threatened Wildlife of the United States (USFWS, 1973). Subsequently, however, some authorities have put right and bowhead whales in the same genus, *Balaena* (Rice, 1977). In addition, the current List of Endangered and Threatened Wildlife lists the right whale as *Balaena glacialis* (incl. *australis*) (50 CFR 17.11). Despite these differences in listing, the genus *Eubalaena* has been most widely recognized and commonly used in the scientific community as the genus associated with all right whale species. Virtually all related scientific literature and popular literature on marine mammals (see, for example, Cummings, 1985; Hall and Kelson, 1959; Jefferson *et al.*, 1993; Klinowska, 1991) historically use the genus *Eubalaena* to identify right whales as originally named by Muller in 1776.

*Eubalaena* is also the name accepted by both the International Whaling Commission (IWC) and NMFS. The IWC 2001 report on the world-wide status of right whales uses the genus *Eubalaena* (Best *et al.*, 2001). NMFS has used this nomenclature in its Stock Assessment Reports, the Final Recovery Plan for the Northern Right Whale (NMFS, 1991), and other technical documents dating back to at least 1991. Therefore, this nomenclatorial change would make the List consistent with the generally accepted use by the scientific community, IWC reports, and NMFS technical documents for over a decade. Thus, to recognize the currently accepted genus for right whale species worldwide, the first technical revision in this rule is to correct right whale nomenclature on the list from genus *Balaena* to genus *Eubalaena*.

The second change reflects new evidence from recent genetic studies regarding the taxonomic classification of right whales. Historically, right whales were classified as two distinct species, *Eubalaena glacialis* in the northern hemisphere (Pacific and Atlantic Ocean basins) and *Eubalaena australis* in the southern hemisphere, based on a morphological difference in the orbital region of the skull (Muller, 1954; Rosenbaum *et al.*, 2000). Other interpretations had given North Pacific right whales full species status as *Eubalaena japonica* (Lacepede 1818) or treated the population as a subspecies of *Eubalaena glacialis*. Prior to the current technical revision, North Pacific right whales have been most widely recognized as an intraspecific population of northern right whales (Rice, 1998). The taxonomic structure of