

Dated: February 7, 1996.
 Stephen R. Colgate,
*Assistant Attorney General for
 Administration.*

PART 16—[AMENDED]

1. The authority citation for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g) and 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717 and 9701.

2. 28 CFR 16.97 is amended by redesignating paragraph (c) as paragraph (i), by revising the first sentence of newly-redesignated paragraph (i), and by adding paragraphs (c) and (d) to read as follows:

§ 16.97 Exemption of Federal Bureau of Prisons (BOP) Systems—limited access.

* * * * *

(c) The following system of records is exempted pursuant to 5 U.S.C. 552a(j)(2) from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(5) and (e)(8), and (g). In addition, the following system of records is exempted pursuant to 5 U.S.C. 552a(k)(2) from subsections (c)(3), (d), and (e)(1):

Bureau of Prisons Access Control Entry/Exit,
 (JUSTICE/BOP-010).

(d) These exemptions apply only to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(j)(2) or (k)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, e.g. public source materials, or those supplied by third parties, the applicable exemption may be waived, either partially or totally, by the BOP. Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) for similar reasons as those enumerated in paragraph (3).

(2) From subsection (c)(4) to the extent that exemption from subsection (d) will make notification of corrections or notations of disputes inapplicable.

(3) From the access provisions of subsection (d) to the extent that exemption from this subsection may appear to be necessary to prevent access by record subjects to information that may jeopardize the legitimate correctional interests of safety, security, and good order of Bureau of Prisons facilities; to protect the privacy of third parties; and to protect access to relevant information received from third parties, such as other Federal State, local and foreign law enforcement agencies,

Federal and State probation and judicial offices, the disclosure of which may permit a record subject to evade apprehension, prosecution, etc.; and/or to otherwise protect investigatory or law enforcement information, whether received from other third parties, or whether developed internally by the BOP.

(4) From the amendment provisions of subsection (d) because amendment of the records would interfere with law enforcement operations and impose an impossible administrative burden. In addition to efforts to ensure accuracy so as to withstand possible judicial scrutiny, it would require that law enforcement and investigatory information be continuously reexamined, even where the information may have been collected from the record subject. Also, where records are provided by other Federal criminal justice agencies or other State, local and foreign jurisdictions, it may be administratively impossible to ensure compliance with this provision.

(5) From subsection (e)(1) to the extent that the BOP may collect information that may be relevant to the law enforcement operations of other agencies. In the interests of overall, effective law enforcement, such information should be retained and made available to those agencies with relevant responsibilities.

(6) From subsection (e)(2) because primary collection of information directly from the record subject is often highly impractical, inappropriate and could result in inaccurate information.

(7) From subsection (e)(3) because compliance with this subsection may impede the collection of information that may be valuable to law enforcement interests.

(8) From subsection (e)(5) because in the collection and maintenance of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely and complete. Data which may seem unrelated, irrelevant or incomplete when collected may take on added meaning or significance as an investigation progresses or with the passage of time, and could be relevant to future law enforcement decisions.

(9) From subsection (e)(8) because the nature of BOP law enforcement activities renders notice of compliance with compulsory legal process impractical and could seriously jeopardize institution security and personal safety and/or impede overall law enforcement efforts.

(10) From subsection (g) to the extent that the system is exempted from subsection (d).

* * * * *

(i) Consistent with the legislative purpose of the Privacy Act of 1974 (Pub. L. 93-579) the BOP has initiated a procedure whereby federal inmates in custody may gain access and review their individual prison files maintained at the institution of incarceration. * * *

[FR Doc. 96-3679 Filed 2-16-96; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[FRL-5345-3]

Underground Storage Tank Program: Approved State Program for Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the U.S. Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under Sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions. This rule codifies in 40 CFR part 282 the prior approval of Rhode Island's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

DATES: This regulation is effective April 22, 1996, unless EPA publishes a prior Federal Register notice withdrawing this immediate final rule. All comments on the codification of Rhode Island's underground storage tank program must be received by the close of business March 21, 1996. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of April 22, 1996, in accordance with 5 U.S.C. 552(a).

ADDRESSES: Comments may be mailed to the Docket Clerk (Docket No. UST 5-2), Underground Storage Tank Program, HPU-CAN7, U.S. EPA Region I, JFK Federal Building, Boston, MA 02203-

2211. Comments received by EPA may be inspected in the public docket, located in the Waste Management Division Record Center, 90 Canal St., Boston, MA 02203 from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Stuart F. Gray, Underground Storage Tank Program, HPU-CAN7, U.S. EPA Region I, JFK Federal Building, Boston, MA 02203-2211. Phone: (617) 573-9655.

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency to approve state underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. EPA published a Federal Register document announcing its decision to grant approval to Rhode Island. (57 FR 220, November 13, 1992). Approval was effective on February 10, 1993.

EPA codifies its approval of state programs in 40 CFR part 282 and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under Sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of the Rhode Island underground storage tank program. This codification reflects only the state underground storage tank program in effect at the time EPA granted Rhode Island approval under section 9004(a), 42 U.S.C. 6991c(a). EPA provided notice and opportunity for comment earlier during the Agency's decision to approve the Rhode Island program. EPA is not now reopening that decision nor requesting comment on it.

Codification provides clear notice to the public of the scope of the approved program in each state. By codifying the approved Rhode Island program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Rhode Island, the status of federally approved requirements of the Rhode Island program will be readily discernible. Only those provisions of the Rhode Island underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Rhode Island's underground storage tank

program, EPA has added Section 282.89 to Title 40 of the CFR. § 282.89 incorporates by reference for enforcement purposes the state's statutes and regulations. Section 282.89 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under Subtitle I of RCRA.

The Agency retains the authority under Sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, EPA will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the state authorized analogs to these provisions. Therefore, the approved Rhode Island enforcement authorities will not be incorporated by reference. Forty CFR § 282.89 lists those approved Rhode Island authorities that would fall into this category.

The public also needs to be aware that some provisions of Rhode Island's underground storage tank program are not part of the federally approved state program. These are:

- Registration requirements for farm or residential tanks less than or equal to 1,100 gallons containing motor fuels for non-commercial use;
- Registration requirements for tanks used for storing heating oil for consumptive use on the premises; and
- Permanent closure requirements for tanks containing heating oil consumed on the premises where stored.

These non-approved provisions are not part of the RCRA Subtitle I program, because they are "broader in scope" than Subtitle I of RCRA. See 40 CFR 281.12(a)(3)(ii). As a result, state provisions which are "broader in scope" than the federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.89 of the codification simply lists for reference and clarity the Rhode Island statutory and regulatory provisions which are "broader in scope" than the federal program and which are not, therefore, part of the approved program being codified today. "Broader in scope" provisions cannot be enforced by EPA. The State, however, will continue to enforce such provisions.

Certification Under the Regulatory Flexibility Act

This rule codifies the decision already made (57 FR 220, Nov. 13, 1992) to approve the Rhode Island underground

storage tank program and thus has no separate effect. Therefore, this rule does not require a regulatory flexibility analysis. Thus, pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 282

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State program approval, Underground storage tanks, Water pollution control.

Dated: September 14, 1995.

John P. DeVillars,
Regional Administrator.

For the reasons set forth in the preamble, 40 CFR part 282 is amended as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

2. Subpart B is amended by adding § 282.89 to read as follows:

Subpart B—Approved State Programs

§ 282.89 Rhode Island State-Administered Program.

(a) The State of Rhode Island is approved to administer and enforce an underground storage tank program in lieu of the federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Rhode Island Department of Environmental Management, was approved by EPA pursuant to 42 U.S.C. 6991c and Part 281 of 40 CFR. EPA approved the Rhode Island program on

January 11, 1993, and the approval was effective on February 10, 1993.

(b) Rhode Island has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under Sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Rhode Island must revise its approved program to adopt new changes to the federal Subtitle I program which make it more stringent, in accordance with Section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Rhode Island obtains approval for the revised requirements pursuant to Section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the Federal Register.

(d) Rhode Island has final approval for the following elements submitted to EPA in Rhode Island's program application for final approval and approved by EPA on January 11, 1995. Copies may be obtained from the Underground Storage Tank Program, Rhode Island Department of Environmental Management, 291 Promenade Street, Providence, RI 02908. The elements are listed as follows:

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Rhode Island Statutory Requirements Applicable to the Underground Storage Tank Program, 1995.

(B) Rhode Island Regulatory Requirements Applicable to the Underground Storage Tank Program, 1995.

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include: Titles 46, 42, 38, 37, and 23 of the General Laws of Rhode Island, 1956, as amended.

(B) The regulatory provisions include: The State of Rhode Island Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials.

(iii) The following statutory and regulatory provisions are broader in scope than the federal program, are not part of the approved program, and are

not incorporated by reference herein for enforcement purposes.

(A) Titles 46, 42, 38, 37, and 23 of the General Laws of Rhode Island, 1956, as amended, insofar as they refer to registration and closure requirements for tanks containing heating oil consumed on the premises where stored; and farm or residential tanks less than or equal to 1,100 gallons containing motor fuels for non-consumptive use.

(B) Rhode Island Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials, Section 8, Facility Registration and Notification, and Section 15, Closure; insofar as they refer to tanks less than or equal to 1,100 gallons containing motor fuels for non-commercial use and for tanks containing heating oil consumed on the premises where stored.

(2) *Statement of legal authority.* (i) "Attorney General's Statement for Final Approval and appendices" signed by the Attorney General of Rhode Island on July 1, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Rhode Island to EPA July 1, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The "Demonstration of Procedures for Adequate Enforcement" submitted as part of the original application in July 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program Description.* The program description and any other material submitted as part of the original application in July 1992, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* On October 19, 1992, EPA and the Rhode Island Department of Environmental Management signed the Memorandum of Agreement. Though not incorporated by reference, the Memorandum of Agreement is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

3. Appendix A to part 282 is amended by adding in alphabetical order "Rhode Island" and its listing.

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Rhode Island

(a) The statutory provisions include Rhode Island Statute Title 46 of the General Laws of Rhode Island, 1956, as amended:

- Chapter 12 Water Pollution
- Chapter 12.1 Underground Storage Tanks
- Chapter 12.3 The Environmental Injury Compensation Act
- Chapter 12.5 Oil Pollution Control
- Chapter 13.1 Groundwater Protection
- Chapter 14 Contamination of Drinking Water

(b) The statutory provisions include Title 42 of the General Laws of Rhode Island, 1956, as amended.

Chapter 35 Administrative Procedures

(c) The statutory provisions include Title 38 of the General Laws of Rhode Island, 1956, as amended.

Chapter 2 Access to Public Records

(d) The statutory provisions include Title 37 of the General Laws of Rhode Island, 1956, as amended.

Chapter 18 Narragansett Indian and Management Corp.

(e) The statutory provisions include Title 23 of the General Laws of Rhode Island, 1956, as amended.

Chapter 19.1 Hazardous Waste Management

(f) The regulatory provisions include State of Rhode Island, Agency of Natural Resources, Underground Storage Tank Regulations, February 1, 1991:

- Section 1.00 Purpose
- Section 2.00 Authority
- Section 3.00 Superseded Rules and Regulations
- Section 4.00 Severability
- Section 5.00 Applicability
- Section 6.00 Administrative Findings
- Section 7.00 Definitions
- Section 8.00 Facility Registration and Notification
- Section 9.00 Financial Responsibility
- Section 10.00 Minimum Existing Facility Requirements
- Section 11.00 New Facility and Replacement Tank Requirements
- Section 12.00 Facility Modification
- Section 13.00 Maintaining Records
- Section 14.00 Leak and Spill Response
- Section 15.00 Closure
- Section 16.00 Leak Detection Methods and Precision Tester Licensing Requirements

- Section 17.00 Signatories to Registration and Closure Applications
- Section 18.00 Transfer of Certificates of Registration or Closure
- Section 19.00 USTs/Holding Tanks Serving Floor Drains
- Section 20.00 Variances
- Section 21.00 Appeals
- Section 22.00 Penalties
- Appendix A
- Appendix B
- Appendix C

[FR Doc. 96-3284 Filed 2-16-96; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 296

[Docket No. 951207292-5292-1; I.D. 102595A]

RIN 0648-A155

Fishermen's Contingency Fund; Simplification of Regulations

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

ACTION: Final rule.

SUMMARY: NMFS amends the Fishermen's Contingency Fund (FCF) regulations for purposes of clarification and simplification in accordance with the President's Regulatory Reform Initiative.

EFFECTIVE DATE: February 20, 1996.

ADDRESSES: Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles L. Cooper, Program Leader, 301-713-2396.

SUPPLEMENTARY INFORMATION: Title IV of the Outer Continental Shelf Lands Act Amendments (43 U.S.C. 1841 *et seq.*) established the FCF to compensate commercial fishermen for property or economic loss caused by oil and gas activities on the U.S. Outer Continental Shelf. The FCF comprises assessments collected from offshore energy interests.

In March 1995, President Clinton issued a directive to Federal agencies regarding their responsibilities under his Regulatory Reform Initiative. This initiative is part of the National Performance Review and calls for immediate, comprehensive regulatory reform. The President directed all

agencies to undertake an exhaustive review of all their regulations with an emphasis on eliminating or modifying those that are obsolete or otherwise in need of reform. In response to this initiative, FCF regulations were reviewed to determine how they could be reformed. This rule implements the results of that review by making several changes to the FCF regulations. Regulatory provisions that do not facilitate accurate and expeditious adjustment of claims as well as those that impose unnecessary burdens upon claimants have been dropped. Program addresses and phone numbers have been updated. Program procedures have been streamlined by dropping regulatory provisions that stated that the amounts awarded in an initial determination would be disbursed only after the claimant (1) stated in writing that he/she would not appeal the initial determination, (2) signed an agreement to repay any subsequent reduction of the award, and (3) signed an agreement assigning his/her rights against those causing the casualty to NMFS. NMFS will incorporate agreements (2) and (3) into the application, thereby expediting the payment of claims. The claimant's right to appeal the initial determination within 30 days is preserved in the regulations, whether the amount awarded has been disbursed or not.

Classification

Because this rule only simplifies existing regulations without making any substantive changes, no useful purpose would be served by providing prior notice and opportunity for comment on this rule. Accordingly, under 5 U.S.C. 553(b)(B), it is unnecessary to provide such notice and opportunity for comment. Also, because this rule is only administrative in nature and is not a substantive rule it is not subject to the 30-day delay in effective date provision of 5 U.S.C. 533(d). As such, this rule is effective upon publication.

This final rule has been determined to be not significant for the purposes of E.O. 12866.

List of Subjects in 50 CFR Part 296

Claims, Continental shelf, Fisheries, Fishing vessels, Oil and gas exploration, Reporting and recordkeeping requirements.

Dated: February 12, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 296 is amended as follows:

PART 296—FISHERMEN'S CONTINGENCY FUND

1. The authority citation for part 296 continues to read as follows:

Authority: Public Law 97-212 (43 U.S.C. 1841 *et seq.*).

2. Section 296.2 is amended in the definition for "Area affected by Outer Continental Shelf activities" by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; in the definition for "Negligence or fault" by redesignating paragraphs (a) through (e) as paragraphs (1) through (5), respectively; and by revising the definition for "Chief, FSD" to read as follows:

§ 296.2 Definitions.

* * * * *

Chief, FSD means Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910; telephone: (301) 713-2396.

* * * * *

§ 296.4 [Amended]

3. In § 296.4, paragraphs (c) and (d) are removed, and paragraph (e) is redesignated as paragraph (c).

4. In § 296.5, paragraph (a)(3) is removed and paragraph (a)(4) is redesignated as paragraph (a)(3); in paragraph (e)(6)(ii) the word "hauled" is removed and the word "deployed" is added in its place; and paragraph (a)(2) is amended by removing the phrase "The fifteen-day report must be made to one of the following NMFS Offices:" and the list that follows it and adding the following sentence in its place:

§ 296.5 Instructions for filing claims.

(a) * * *

(2) * * * The fifteen-day report must be made to the Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910; telephone: (301) 713-2396.

* * * * *

§ 296.6 [Amended]

5. In § 296.6, in paragraph (b)(1), the phrase "Convert the casualty coordinates into latitude and longitude," is removed and the word "plot" is capitalized.

6. Section 296.13 is revised to read as follows:

§ 296.13 Payment of award for claim.

(a) Upon an initial determination, the Chief, Financial Services Division, shall immediately disburse the claim awarded if the claimant signed as part of his/her application a statement