Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a State of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation because this rule temporarily changes the operating regulations for a drawbridge.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499, Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From October 16, 2003, through May 14, 2004, § 117.720(b) is temporarily suspended and a new paragraph (c) is added to read as follows:

§ 117.720 Great Channel

* * * * *

(c) From 8 a.m. on October 16, 2003, until 11 p.m. on May 14, 2004, the draw of the County of Cape May Bridge, mile 0.7, between Stone Harbor and Nummy Island need not open for the passage of vessels.

Dated: October 16, 2003.

Ben R. Thomason III,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 03–27126 Filed 10–27–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–03–166]

RIN 1625–AA00

Safety Zone; Hatteras Island, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the vicinity of a newly created breach in Hatteras Island, NC, caused by heavy surf during Hurricane Isabel. The U.S. Army Corps of Engineers will be conducting dredging and filling operations to close the newly created breach. A safety zone is needed to prevent vessels from traveling on the waters in the breach during the dredging and filling operations.

DATES: This rule is effective from 12 noon on October 17, 2003, to 5 p.m. on November 1, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05–03–166 and are available for inspection or copying at Coast Guard Marine Safety Office, Wilmington, NC between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Chuck Roskam, Project Officer, USCG MSO Wilmington, telephone number (910) 772–2200.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The Coast Guard believes that the hazards associated with the situation are so severe that immediate action is necessary to prevent loss of property, serious injury, or loss of life. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Allowing for a comment period is impracticable and contrary to the public interest, since immediate action is needed to protect mariners against potential hazards associated with the dredging and filling operations at Hatteras Island. However, notification will be made to affected mariners via marine information broadcasts, and direct contact with agents and vessels affected by this regulation.

Background and Purpose

Hurricane Isabel eroded a section of Hatteras Island, NC, in effect creating a breach allowing waters to flow between the Pamlico Sound and the Atlantic Ocean. Since the storm, local county government authorities and the U.S. Army Corps of Engineers (ACOE) have been working to re-establish road access to the entire Island. To accomplish this goal, the ACOE is planning to conduct operations to fill the breach. These around-the-clock operations, with associated dredge piping and vessels operating will present dangers to vessels and persons operating in the area. The Captain of the Port Wilmington, NC, is creating a safety zone in order to ensure the safety of workers, and persons and vessels that might wish to transit the area. The safety zone will serve to prevent vessels and persons from entering the area, and thus serve to keep the public safe from the potential hazards associated with the dredging and filling operations.

Discussion of Rule

The Coast Guard is establishing this safety zone at the new breach in Hatteras Island, NC, in order to protect vessels and persons from dangers associated with an ACOE dredging and filling project. Subsequent to Hurricane Isabel causing this new breach, boaters continue to make attempts to cross through this new opening between Pamlico Sound and the Atlantic Ocean. Having a safety zone in place would serve to keep boaters out of this area while the ACOE conducts its dredging and filling operations.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

Based on the fact that this new passage between the Pamlico Sound and the Atlantic Ocean did not exist until the passage of Hurricane Isabel, and the U.S. Army Corps of Engineers intends to close the inlet, this rule will not have a significant impact. Any hardships experienced by persons or vessels are outweighed by the interest in protecting the public, vessels, and vessel crews

from the potentially devastating consequences of the hazard presented by the dredging and filling operations.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect mainly recreational boaters who may wish to transit the new breach between the Pamlico Sound and the Atlantic Ocean. The body of water filling the breach did not exist prior to the passage of Hurricane Isabel, and the U. S. Army Corps of Engineers intends to close the inlet. No small entities have become accustomed to using this new body of water; therefore this rule will not have a significant impact. Any hardships experienced by persons or vessels are outweighed by the interest in protecting the public, vessels, and vessel crews from the potentially devastating consequences of the hazard presented by the dredging and filling operations.

Assistance for Small Entities

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247)

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Add temporary § 165.T05–150 to read as follows:

§ 165.T05–150 Safety Zone: Hatteras Island, NC.

(a) *Location.* The following area is a safety zone: waters of the Pamlico Sound and the Atlantic Ocean within a rectangle shaped area defined by the coordinates 35°13.3′ N, 75°39.2′ W; 35°13.3′ N, 75°40.3′ W; 35°12.8′ N, 75°40.3′ W; and 35°12.8′ W, 75°39.2′ W.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply to all persons and vessels in the safety zone, or approaching the safety zone.

(2) All persons and vessels in the safety zone, or approaching the safety zone, must comply with the instructions of the Coast Guard Captain of the Port or designated on-scene-patrol personnel. These personnel include commissioned,

warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(c) *Waivers.* The COTP may waive any of the requirements of this section for any person, vessel or class of vessel upon finding that circumstances are such that application of the safety zone is unnecessary for port safety.

(d) *Effective period.* This section is effective from 12 noon on October 17, 2003, to 5 p.m. on November 1, 2003.

Dated: October 17, 2003.

Jane M. Hartley,

Captain, U.S. Coast Guard, Captain of the Port, Wilmington, NC.

[FR Doc. 03–27128 Filed 10–27–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL–7579–6]

Revisions to the Regional Haze Rule To Correct Mobile Source Provisions in Optional Program for Nine Western States and Eligible Indian Tribes Within That Geographic Area; Direct Final Rule, Removal of Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; removal of amendments.

SUMMARY: On July 3, 2003, (68 FR 39842), EPA published a direct final rule to approve a correction to the mobile source provisions in the regional haze rule. EPA stated in that direct final action that, if we received adverse comment by August 4, 2003, we would publish a timely withdrawal in the **Federal Register**. EPA subsequently received adverse comment on that direct final rule but did not timely publish the withdrawal. In this action, EPA is removing the amendments that were published in the July 3, 2003, direct final rule. We will address all public comments in a subsequent final action on the parallel proposed rule amendment (68 FR 39888).

DATES: This action is effective as of October 28, 2003.

ADDRESSES: Docket. Materials relevant to the direct final rule that was published in the **Federal Register** on July 3, 2003 (68 FR 39842) are contained in Public Docket Number OAR–2002–0076 at the following address: EPA Docket Center (EPA/DC), Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, except on government holidays. You can reach the Reading Room by telephone at (202) 566–1744, and by facsimile at (202) 566–1741. The telephone number for the Air Docket is (202) 566–1742. You may be charged a reasonable fee for photocopying docket materials, as provided in 40 CFR part 2.

Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above. Once in the system, select ''search,'' then key in the docket identification number, OAR–2002–0076.

FOR FURTHER INFORMATION CONTACT: If you would like further information about this rule, contact Kathy Kaufman, Integrated Policies and Strategies Group, (919) 541–0102 or by e-mail *kaufman.kathy@epa.gov.*

SUPPLEMENTARY INFORMATION: On July 1, 1999, we published the final regional haze rule. The regional haze rule provisions appear at 40 CFR 31.308 and 40 CFR 51.309. The rule requires States to develop implementation plans that will make ''reasonable progress'' toward the national visibility goal. The State plans must include these visibility progress goals for each Class I area, as well as emissions reductions strategies and other measures needed to meet these goals. The rule also provides an optional approach, described in 40 CFR 51.309, that may be followed by the nine Western States (Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Wyoming) that comprise the transport region analyzed by the Grand Canyon Visibility Transport Commission (GCVTC) during the 1990's. This optional approach is also available to eligible Indian Tribes within this geographic region.

On July 3, 2003, we published a direct final action (68 FR 39842) and a parallel proposal (68 FR 39888) to amend the mobile source provisions in 40 CFR 51.309. We stated in the direct final action that if we received adverse comment by August 4, 2003, we would publish a withdrawal notice in the **Federal Register**. We also stated that if the Agency received no adverse comments, the rule would be effective September 2, 2003. We received adverse comments from the Center for Energy and Economic Development but did not publish the withdrawal notice before September 2, 2003. In this action, EPA is removing the amendments that were published in the July 3, 2003 direct final rule. We will address all public comments in a subsequent final action on the parallel proposed rule amendment.

This removal action is a ministerial correction of the prior direct final rulemaking, which by its terms did not become effective because the Center for Energy and Economic Development commented adversely on the approval action. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B) because EPA believes that notice-and-comment rulemaking of this removal action is contrary to the public interest and unnecessary. This removal action merely restores the regulatory text that existed prior to the direct final rule. Further notice-and-comment on this action is unnecessary because we are merely restoring the regulatory text that existed prior to the final rule. For the same reasons, we believe there is good cause for this removal to become effective upon publication. We will address all public comments in a subsequent final action on the parallel proposed rule amendment.

Statutory and Executive Order Reviews

As discussed above, this removal action merely restores the regulatory text that existed prior to the direct final rule. Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to OMB review. Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments. This rule does not have tribal implications, as specified in Executive Order 13175 (63 FR 67249, November 9, 2000). This action will not