SUMMARY: The Department of Air Force is updating the Department of Air Force Privacy Act Program Rules, 32 CFR part 806b, by adding the (k)(1) thru (k)(7) exemptions to accurately describe the basis for exempting the records. The Privacy Act system of records notice, F051 AF JAA, entitled ''Freedom of Information Appeal Records'', was has already been published on December 12, 2008 (73 FR 75688).

DATES: The rule will be effective on January 5, 2010 unless comments are received that would result in a contrary determination. Comments will be accepted on or before January 5, 2010.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket management System Office, 1160 Defense Pentagon, Room 3C843, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Swilley at (703) 696–6648.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been determined that Privacy Act rules for the Department of Defense do not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, ''Federalism''

It has been determined that Privacy Act rules for the Department of Defense do not have federalism implications. The rules do 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.

List of Subjects in 32 CFR Part 806b

Privacy.

■ Accordingly, 32 CFR part 806b is amended as follows:

PART 806b—PRIVACY ACT PROGRAM

■ 1. The authority citation for 32 CFR part 806b continues to read as follows:

Authority: Public Law 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

■ 2. Paragraph (e) of Appendix D to 32 CFR part 806b is amended by adding paragraph (26) to read as follows:

Appendix D to Part 806b—General and Specific Exemptions

* * * * *

(26) System identifier and name: F051 AF JAA, Freedom of Information Appeal Records.

(i) *Exemption:* During the processing of a Privacy Act request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reason:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record, and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

* * * * *

Dated: November 2, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–26746 Filed 11–5–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–0956]

RIN 1625–AA00

Safety Zone; SR 90 Bridge, Assawoman Bay, Isle of Wight and Ocean City, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Assawoman Bay in the vicinity of the SR 90 Bridge (Ocean City Expressway) that connects Isle of Wight and Ocean City, MD. This action will protect mariners and public property on Assawoman Bay from the hazards associated with possible falling debris from the channel span superstructure and facilitates expeditious repairs to the

span by allowing the contracted company to maintain their position inside the main channel. Vessel traffic will be redirected to an alternative channel during the effective period.

DATES: This rule is effective from 12:01 a.m. October 22, 2009 through 11:59 p.m. December 31, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–0956 and are available online by going to *http://www.regulations.gov,* inserting USCG–2009–0956 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail LT Tiffany Duffy, United States Coast Guard Sector Hampton Roads Waterways Management Division; telephone 757–668–5580, e-mail *Tiffany.A.Duffy@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to provide for the safety of life and property on navigable waters.

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**. Delaying the effective date would be contrary to the public interest because the dilapidated condition of the channel span superstructure could lead to severe injury, fatalities, and/or destruction of public property; therefore, immediate action is needed to ensure public safety.

Background and Purpose

Coast Guard Sector Hampton Roads has been notified by Maryland Department of Transportation State Highway Administration that immediate repairs are required on the channel span superstructure of the SR 90 Bridge over Assawoman Bay. During the period of repair, vessel traffic through the main channel will be restricted and redirected to transit under the bridge span immediately west of the main span. Due to the need to protect mariners and spectators from the hazards associated with repair operations, access to all waters of Assawoman Bay within the 900 foot radius of the main channel of the SR 90 Bridge will be closed to navigation. Hazards associated with repair operations include, but are not limited to, the presence of heavy machinery used to fix the main channel span and the potential for falling objects or debris caused by vehicular traffic travelling over the dilapidated portion of the main channel span.

Discussion of Rule

The Coast Guard is establishing a safety zone on the specified waters of Assawoman Bay in the vicinity of Isle of Wight and Ocean City, Maryland. This safety zone will encompass all navigable waters of Assawoman Bay within 900 foot radius of approximate position 38°23′19″ N, 075°5′22″ W (NAD 1983). All traffic will be redirected to navigable waters immediately adjacent to and west of the main channel span structure by private aids to navigation pre-positioned at approximate positions 38°23′17″ N, 075°5′34″ W; 38°23′17″ N, 075°5′33″ W; 38°23′24″ N, 075°5′33″ W; 38°23′23″ N, 075°5′32″ W; 38°23′17″ N, 075°5′33″ W; and 38°23′24″ N, 075°5′33″ W (NAD 1983) and by bridge navigation lights. The safety zone will be established in the interest of public safety during the repair of the SR 90 Bridge (Ocean City Expressway) channel span superstructure and will be enforced from 12:01 a.m. October 22, 2009 through 11:59 p.m. December 31, 2009. No person or vessel may enter or remain in the safety zone unless authorized by the Captain of the Port or his Representative. Vessels will be allowed to transit around the safety zone, under the bridge span immediately west of the main span. Notification of the safety zone will be provided to the public via marine information broadcasts.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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.

Although this proposed regulation restricts access to the safety zone, the effect of this rule will not be significant because: (i) The safety zone will be in effect during less-traveled times of the year; (ii) the zone is of limited size; (iii) there is an alternative channel for vessels to transit; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly. For those reasons, the Coast Guard does not anticipate any significant economic impact.

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 the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor Assawoman Bay in the vicinity of the SR 90 Bridge (Ocean City Expressway) from 12:01 a.m. October 22, 2009 until 11:59 p.m. December 31, 2009. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) The safety zone will only be in place during less-traveled times of the year; (2) before the effective period, maritime advisories will be issued allowing mariners to adjust their plans accordingly; (3) although the safety zone will apply to

all navigable waters of Assawoman Bay within a 900 feet radius of approximate position 38°23′19″ N, 075°5′22″ W (NAD 1983), vessel traffic will be allowed to pass through the zone with the permission of the Captain of the Port or his Representative; and (4) there is an alternative channel for vessels to transit.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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 an 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.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishing a safety zone. This safety zone introduces no additional hazards to the environment while ensuring that life and property are protected during repair operations of the channel span superstructure. An environmental analysis checklist and a categorical exclusion determination are 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 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 § 165.T05–0956 to read as follows:

§ 165.T05–0956 Safety Zone; SR 90 Bridge, Assawoman Bay, Isle of Wight and Ocean City, MD.

(a) *Location.* The following area is a safety zone: Specified waters of Assawoman Bay within 900 foot radius of approximate position 38°23′19″ N, 075°5′22″ W (NAD 1983)., in the

vicinity of Isle of Wight and Ocean City, MD.

(b) *Definitions.* As used in this section, *designated representative* means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone must:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia at telephone number (757) 638–6641.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65 Mhz) and channel 16 (156.8 Mhz).

(d) *Enforcement Period:* This regulation will be in effect from October 22, 2009 through December 31, 2009.

Dated: October 22, 2009.

M.S. Ogle,

Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. E9–26772 Filed 11–5–09; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–R05–RCRA–2009–0747; SW–FRL–8972–9]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste Final Exclusion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA (also, ''the Agency'' or ''we'' in this preamble) is granting a petition to exclude (or ''delist'') wastewater treatment plant sludges from conversion coating on aluminum generated at the Sterling Heights Assembly Plant (SHAP), Sterling Heights, Michigan from the list of hazardous wastes. SHAP is owned by Old Carco LLC (formerly Chrysler LLC, formerly DaimlerChrysler) and operated by Chrysler Group LLC.

This action conditionally excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in a lined Subtitle D landfill which is permitted, licensed, or registered by a State to manage industrial solid waste. The exclusion was proposed on March 7, 2002 as part of an expedited process to evaluate this waste under a pilot project developed with the Michigan Department of Environmental Quality (MDEQ). The rule also imposes testing conditions for waste generated in the future to ensure that this waste continues to qualify for delisting.

DATES: This rule is effective on November 6, 2009.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–RCRA–2009–0747. The electronic docket contains all relevant documents created after this action was proposed as well as a selection of pertinent documents from the original paper docket for the proposed rule, Docket ID No. R5–MIECOS–01. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. All documents in the electronic docket are listed on the *http://www.regulations.gov* Web site. Publicly available materials from Docket ID No. EPA–R05–RCRA–2009–0747 are available either electronically through *http://www.regulations.gov* or in hard copy. Materials from the original paper docket, Docket ID No. R5–MIECOS–01, are also available in hard copy. You can view and copy materials from both dockets at the Records Center, 7th floor, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604. This facility is open from 8:30 am to 4:00 pm, Monday through Friday, excluding legal holidays. We recommend you telephone Todd Ramaly at (312) 353–9317 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Todd Ramaly, Land and Chemicals Division, (Mail Code: LR–8J), EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604; telephone number: (312) 353–9317; fax number: (312) 353–4788; e-mail address: *ramaly.todd@epa.gov*.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Background

A. What is a delisting petition?

A delisting petition is a request from a generator to exclude waste from the list of hazardous wastes under RCRA regulations. In a delisting petition, the petitioner must show that waste generated at a particular facility does not meet any of the criteria for which EPA listed the waste as set forth in Title 40 Code of Federal Regulations (40 CFR) 261.11 and the background document for the waste. In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity, and toxicity) and must present sufficient information for us to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. See 40 CFR 260.22, 42 United States Code (U.S.C.) 6921(f) and the background documents for a listed waste.

Generators remain obligated under RCRA to confirm that their waste remains nonhazardous based on the hazardous waste characteristics even if EPA has ''delisted'' the wastes and to ensure that future generated wastes meet the conditions set.

B. What regulations allow a waste to be delisted?

Under 40 CFR 260.20, 260.22, and 42 U.S.C. 6921(f), facilities may petition the EPA to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. Specifically, 40 CFR 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts