Essentially, the capitalization of certain words (Act, custodian, civil investigative demand) was made consistent throughout the regulation, and the term ''civil investigation demand'' was changed to ''civil investigative demand,'' which is the term used in the statute.

The above-mentioned interim rule included a 60-day public comment period. The Department received no comments before the comment period expired on October 24, 1995. The Department has determined to issue the rule in final form without revision to the interim rule.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612

This regulation 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. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, § 1(b), Principles of Regulation. The Department of Justice has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, § 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

Accordingly, the interim rule amending 28 CFR part 49 that was published at 60 FR 44276 on August 25, 1995, as corrected at 60 FR 61290 on November 29, 1995, is adopted as a final rule without change.

Dated: January 16, 1996.

Janet Reno,

Attorney General.

FR Doc. 96–1091 Filed 1–24–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

29 CFR Part 215

RIN 1294–AA14

Office of Labor-Management Programs; Guidelines, Section 5333(b), Federal Transit Law

AGENCY: Office of Labor-Management Programs, Office of the American Workplace, Labor.

ACTION: Confirmation of effective date.

SUMMARY: The Office of Labor-Management Programs published a notice in the January 5, 1996 Federal Register (61 FR 386) deferring the effective date of implementation of guidelines for the employee protection program under Title 49 U.S.C., Chapter 53, Section 5333(b) of the Federal Transit law. Pursuant to the January 5, notice, the original effective date, January 8, 1996, was extended for a period equal to the duration of the furlough caused by the partial government shutdown that began on December 16, 1995.

This document announces and confirms that the new effective date of the guidelines will be January 29, 1996. This action was taken because the temporary closing of government offices and the furlough of Department of Labor (the Department) employees responsible for the administration of this program precluded the Office of Labor-Management Programs from undertaking the necessary staff training and preparation of materials and documents to allow for implementation of the guidelines.

EFFECTIVE DATE: The new effective date of the guidelines is January 29, 1996.

FOR FURTHER INFORMATION CONTACT: Kelley Andrews, Director, Statutory Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5411, Washington, DC 20210, (202) 219–4473.

SUPPLEMENTARY INFORMATION:

I. Rationale

The Office of Labor-Management Programs, Office of the American Workplace, hereby confirms that January 29, 1996 will be the new effective date of the guidelines for the administration of the transit employee protection program pursuant to Section 5333(b) of the Federal Transit law, commonly referred to as ''Section 13(c)'', (FR Vol. 60, No. 235, pg. 62964, December 7, 1995).

II. Publication in Final

The Department finds good cause that public comment on the confirmation of the effective date of these guidelines to be impracticable and unnecessary because the Department is forced to take this action due to the temporary closing of Federal offices and the furlough, caused by the partial government shutdown, affecting the Department employees who administer this program. 5 U.S.C. 553(b)(B).

List of Subjects in 29 CFR Part 215

Grant administration; Grants—transportation; Labor-management relations; Labor unions; Mass transportation.

Accordingly, the amendment of 29 CFR Chapter II published at FR Vol. 60, No. 235, pg. 62964, December 7, 1995, is deferred until January 29, 1996.

Signed at Washington, DC this 22nd day of January, 1996.

Charles L. Smith,

Deputy Assistant Secretary.

[FR Doc. 96–1232 Filed 1–24–96; 8:45 am]

BILLING CODE 4510–86–M

DEPARTMENT OF DEFENSE

Corps of Engineers

33 CFR Part 334

Sinclair Inlet, Puget Sound, Bremerton, WA; Naval Restricted Areas

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Corps is adopting as a final rule without modification, an interim final rule which amends the regulations reestablishing two restricted areas in the waters of Sinclair Inlet adjacent to the Puget Sound Naval Shipyard (PSNS), Bremerton, Washington. The amendments made by the interim final rule are essential to safeguard U.S. Navy vessels and Government facilities from sabotage and other subversive acts, accidents, or other incidents of a similar nature. The promulgation of this final rule is also necessary to protect vessels and individuals from the dangers associated with the industrial waterfront facilities at the shipyard.

DATES: Effective January 25, 1996.

ADDRESSES: HQUSACE, CECW–OR, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Freedman, Regulatory Branch, Seattle District at (206) 764–3495, or Mr. Ralph Eppard, Regulatory Branch, CECW–OR at (202) 761–1783.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the

Rivers and Harbors Act of 1917 (40 Stat. 226; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps published an interim final rule in the Federal Register amending 33 CFR 334.1240, on August 21, 1995 (60 FR 43378–43379), effective on that date. Public comment on the changes to the restricted area rules was invited with the comment period ending on October 20, 1995. The Army Corps of Engineers, Seattle District also published a public notice on the same date as the interim final rule with a concurrent comment period. The public notice was sent to all known interested parties, including Federal agencies, State agencies, local governments, affected Indian tribes, and affected individuals on the Corps, Seattle district mailing lists for the central and southern Puget Sound, Washington region. Subsequent to the publication of the interim final rule and the District public notice, it was found that an omission was made in the interim final rule and on November 24, 1995, a correction was published in the Federal Register (60 FR 57934–57935). The correction clarified that Area number 2 is for the exclusive use of the U.S. Navy by adding the words ''Area No. 2.'' to subparagraph (a)(3)(ii).

Comment on the Interim Final Rule and Responses

Sixteen comments were received in response to the interim final rule. This number also includes the comments received in response to the local public notice published by the Seattle District. The commentors included the Suquamish Tribe, environmental organizations, and individuals. The comments received are addressed below:

Comment: Restricted Area No. 2 should not be exclusive and shouldn't be expanded to accommodate Mooring Area ''A''. This change to the restricted area is also inconsistent with the SEPA checklist regarding Mooring Area A filed with the City of Bremerton in October, 1993 (Suquamish Tribe).

Navy's Response: The Tribe's objection is based on the belief that the exclusivity of the restricted area conflicts with their tribal treaty rights pertaining to usual and accustomed fishing grounds. Such treaty rights are not absolute. The Navy believes that its need to maintain security in the restricted area is more compelling than the minimal impact this restriction may have on the interests of the Suquamish Tribe in gathering fish in that small part of their fishing area. Regarding the Tribe's objection to the expansion of the restricted area, the objection appears based on an assertion that it is unnecessary. That is, there already exists the requisite 100 yards of space between the end of Mooring Area ''A'' and the boundary of the restricted zone. The Tribe is incorrect. The adjustments to the restricted area are required to maintain the 100 yards of space. With regard to inconsistencies with the October 1993 SEPA checklist, the Navy stated that it had no further plans for expansion of Mooring facilities at Bremerton. The Navy made no mention of a security zone or restricted area.

District Engineer's position: The Suquamish Tribe has provided no evidence of treaty fishing in the proposed restricted area. Further, the proposed rule does allow for exceptions with the Naval Base Seattle Commander's approval. Therefore, the proposed restricted area is not believed to conflict with tribal treaty rights. The proposed adjustment of the existing restricted area to accommodate the expansion of Mooring Area ''A'' is a minuscule geographical change over present conditions. The proposed adjustment does not include any alteration of Navy operations that affects the present exclusivity of the restricted area. This proposed adjustment does not constitute a substantive change to existing conditions. Regarding the question of need for the geographic adjustment to accommodate the extension of Mooring Area ''A'', the District Engineer has found that the proposed adjustment to the restricted area acknowledges this extension and the need to provide a 100-yard buffer by adjusting the boundary of the restricted area accordingly. Regarding the alleged inconsistency between this proposal and the referenced 1993 SEPA checklist, this checklist did not and could not discuss any expansion of the existing restricted area. Expansion of the restricted area can only be proposed by the Navy and the Corps of Engineers through public notice and advertisement in the Federal Register. The SEPA checklist stated that the Navy had no plans for additions to Mooring Areas at PSNS. This proposal represents no inconsistency with this or any other previous environmental document.

Comment: Why are exemptions granted to Washington State Ferries and Horluck Transportation Company for unintentional entry into the restricted area when docking at the adjacent Bremerton terminal? If an exception is made for one mode of transportation, why can't an exception be made for another, associated with independent citizen monitoring (Union River Basin Protection Association; the Suquamish Tribe).

Navy Response: Occasionally ferries enter Restricted Area 2 due to wind or tidal conditions, especially if there are docking delays at the terminal. The PSNS maintains direct contact with the State ferry operations office and can quickly determine why a ferry has drifted into the restricted area. PSNS makes an exception for the ferries because they are large and easy to observe. They do not approach Navy ships, disrupt shipyard operations, endanger Navy facilities or individuals, or provide cover for individuals who might want to engage in sabotage or espionage.

District Engineer's position: The previous restricted area regulation allowed for entrance into the area with approval by the Commander, Naval Base Seattle, or his/her authorized representative, as does this final rule. To restrict entry by the State ferries would arbitrarily hinder an essential public service. An independent citizen, in accordance with this final rule, would be able to request access to the restricted area from the Navy.

Comment: The ban on public access prevents the collection of information from the restricted area and infringes on the rights of the public to free speech and right to travel (Government Accountability Project; SEARCH).

Navy's Response: There is no constitutional right for a citizen to enter the restricted area. The Navy is unaware of the authority that supports the assertion that this rule would affect a citizen's exercise of free speech. There is no constitutionally protected right to gather information. The Supreme Court has stated that ''the right of free speech does not carry with it the unrestrained right to gather information''. There is also no constitutional ''right to travel'' in the sense of unrestricted right to go wherever one wants. The Supreme Court has upheld restrictions on entry to military installations where compelling considerations of national security and public safety are at stake.

District Engineer's position: I concur with the Navy that there is a compelling interest in safety and security in Restricted Area No. 2. Therefore, it follows that the restricted area does not violate ones constitutional right to travel. The Constitution allows for regulation of navigation, as does 33 U.S.C. 1. With respect to the right to free speech, this restricted area can be likened to a Coast Guard security zone. It has been held that such security zones are part of military installations, and military installations are not considered a public forum. The District Engineer finds that this amendment does not constitute a violation of constitutionally

protected right to free speech. With respect to the restriction on gathering information that this amendment may cause to the public, there is no protected right. Furthermore, the restricted area is justified in light of the safety and security concerns.

Comment: Several commentors (Union River Protection Association; People for Puget Sound; Government Accountability Project; International Marine Association Protecting Aquatic Life; SEARCH) stated that the Navy could allow independent environmental monitoring of the restricted area, or permit independent monitors to accompany Federal and State regulators who collect samples without risking national security. Present monitoring by government agencies do not pose a threat to national security or to the safety of those person(s) performing the monitoring.

Navy's Response: Security and safety concerns require the PSNS to limit access to Restricted Area No. 2. The Navy does provide escorts for agencies who conduct monitoring, but has chosen not to provide escorts for private citizens for the following reasons:

(1) The Navy can be held liable for any injury to a private individual, even if accompanied by an escort. This risk naturally increases when Scuba diving is involved;

(2) Providing safety and security escorts for private individuals would place an undue burden on Navy staff and resources;

(3) Outside agencies presently perform independent monitoring;

(4) The Navy is not legally required to expend public funds to accommodate private citizens' desires to enter the restricted area.

District Engineer's position: With the proposed update to the restricted area, the wording still allows access to the area if granted by the Commander, Naval Base Seattle. The wording to this restricted area has never absolutely prohibited access by citizens for monitoring or any other purpose. Under this revision to the restricted area, the Navy has not changed this portion of the wording. The Navy still has discretion to permit or deny access to PSNS restricted areas, requiring that those wishing to gain access must first be granted permission from the Base Commander. This wording is fair and appropriate. The objections raised during public comment periods are a matter that the Navy must handle directly with objecting parties.

Comment: The proposed rule should include standards that would be used to evaluate requests for access. The Navy provides no information on what circumstances would enable one to enter the waters. The lack of standards violates the Administrative Procedure Act and impacts freedom of speech (Government Accountability Project; Seattle Chapter, NOW: People for Puget Sound; SEARCH).

Navy's Response: Restricted Area No. 2 is for the exclusive use of the Navy and is considered part of the PSNS military installation. Based on concerns for security and safety, the Navy does not intend to open this area to the general public. Government Agencies, in the legitimate exercise of their authority, have been and will continue to be granted access to the restricted area, when access is determined to be safe and consistent with national security standards. Requests by Agencies such as the U.S. Coast Guard, the Environmental Protection Agency and the Washington State Departments of Ecology and Health have been routinely granted.

District Engineer's Response: See response to comment above. Decisions regarding the granting of permission for public access to PSNS are a matter for the Navy to determine.

Comment: Independent testing and verification of the Navy's testing program should continue and civilian access should be allowed for monitoring environmental contaminants (Union River Basin Protection Association; Government Accountability Project; Seattle Chapter, NOW; International Marine Association Protecting Aquatic Life; Western Environmental Law Center; John S. Mulvey; People for Puget Sound).

Navy's Response: Independent monitoring has been conducted by the Washington State Department of Health, the Environmental Protection Agency, and joint monitoring has been conducted by the Navy with both of these agencies.

District Engineer's Position: Operations at PSNS must be in compliance with all applicable environmental laws and regulations, regardless of the disposition of the restricted area, or any changes to wording for Restricted Area No. 2, Sinclair Inlet. These changes to the wording in the restricted area regulations will have not effect on the continuation of environmental monitoring at PSNS.

Comment: The Navy's request may be motivated by a desire to limit public knowledge about sediment and water column contamination from nuclear programs (Union River Basin Protection Association; Seattle chapter, NOW; International Marine Association Protecting Aquatic Life; Western Environmental Law Center; John Mulvey; People for Puget Sound; SEARCH).

Navy's Response: The Navy has made environmental monitoring information available to the public and invited independent monitoring by State and Federal agencies. The Navy's information relating to its Nuclear Propulsion Program and radioactivity has been reliable and technically sound.

District Engineer's position: (see district engineer's position for previous response)

Comment: Limited monitoring by SEARCH has found levels of radioactivity, specifically of Cadmium-109 and Iodine-131, in marine life in Restricted Area No. 2. The levels far exceed allowable safety standards, and far exceed levels acknowledged by the Navy.

Navy's Response: The Navy's response to the assertions of elevated levels of Cadmium and Iodine was to complete a thorough evaluation which included independent review by credible non-Navy organizations (Washington State Department of Health; Environmental Protection Agency). A sampling and analysis plan was developed based on SEARCH's information. A report publishing the findings concluded that no Cadmium-109 was detected. Low levels of Iodine-131 were found in subsequent sampling. It is believed that the source may be the Bremerton wastewater treatment plant. Sewage systems commonly discharge low levels of Iodine from medical diagnosis and treatment. There is no indication that the PSNS is the source of Iodine-131. The presence of radioactive Iodine-131 is not near levels to be of concern as a hazard to public health or the environment.

District Engineer's position: Again, operations at PSNS must be in compliance with all applicable environmental laws and regulations, regardless of the disposition of the restricted area. The changes to the wording in these regulations will have no effect on the continuation of environmental monitoring at PSNS.

Agency Decision to Adopt the Amendments

The Corps has determined that implementation of final rulemaking for Restricted Area No. 1 and No. 2, is not contrary to the general public interest.

Copies of the comments are available for inspection at the Seattle District Office located at 4735 East Marginal Way South, Seattle, Washington, 98134.

Economic Assessment and Certification

This final rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply. These final rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). The Corps has determined that the economic impact of the changes to the restricted area will have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, no significant economic impact on small entities.

National Environmental Policy Act Certification

An environmental assessment has been prepared which concludes that the proposed action will not have a significant impact to the human environment, and preparation of an environmental impact statement is not required. Copies of the environmental assessment may be reviewed at the Seattle District Office located at 4735 East Marginal Way South, Seattle, Washington, 98134.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger zones.

In consideration of the above, the Corps is adopting without change, the amendments to Part 334 of Title 33, published as an interim final rule on August 21, 1995, at 60 FR 43378 and corrected on November 24, 1995 at 60 FR 57934.

Dated: January 23, 1996.

Approved:

Stanley G. Genega,

Major General, USA, Director of Civil Works.

[FR Doc. 96–1337 Filed 1–23–96; 11:44 am]

BILLING CODE 3710–92–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 3E4230/R2189; FRL–4987–5]

RIN 2070–AB78

Jojoba Oil; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for jojoba oil in or on all raw agricultural commodities when applied at not more than 1.0% of the final spray as an insecticide or as a pesticide spray tank adjuvant in accordance with good agricultural practices. Amvac Chemical Corp. submitted a petition pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA) requesting the regulation to establish an exemption from the requirement of a tolerance.

EFFECTIVE DATE: This regulation becomes effective January 25, 1996.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 3E4230/R2189], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 3E4230/R2189]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Michael L. Mendelsohn, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: 5th Floor, 2800 Crystal Drive, North Tower, Arlington, VA 22202, (703)-308-8715; e-mail: mendelsohn.michael@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 25, 1995 (60 FR 54637), EPA issued a proposed rule that gave notice that Amvac Chemical Corp., 2110 Davie Ave., City of Commerce, CA 90040, had submitted pesticide petition (PP) 3E4230 to EPA requesting that the Administrator, pursuant to section 408(e) of the FFDCA, 21 U.S.C. 346a(e), amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance for simmondsia liquid wax (jojoba oil) and the product Detur for use as an inert ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. Subsequent to its petition, Amvac informed EPA that it had transferred all Detur assets to Imperial Jojoba Oils of El Centro, CA. EPA has, of its own initiative, expanded the original petition to include pesticidal uses of jojoba oil in this proposed exemption from the requirement of a tolerance.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health. Therefore, the tolerance exemption is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues,