

assure that the repository uses and does not duplicate the resources of the Federal government and other States. This supplement was submitted as a plan change on January 23, 1980.

Location of the Plan and its Supplements for Inspection and Copying

A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations:

Office of the Directorate of Federal Compliance and State Programs,
Room N-3619, 200 Constitution
Avenue, N.W., Washington, D.C.
20210

Office of the Regional Administrator,
OSHA, 450 Golden Gate Avenue,
Room 11349, San Francisco, California
94102

California Occupational and Safety and
Health Administration, 455 Golden
Gate Avenue, San Francisco,
California 94102

Public Participation

Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Occupational Health Centers and the Hazard Alert System were established by the California legislature in accordance with the procedural requirements of the State legislative process which included public hearings. In addition, the Assistant Secretary finds that these projects are consistent with the standards-setting, training and education, voluntary compliance and research functions contained in the approved plan which were previously made available for public comment. Good cause is therefore found for approval of the supplements without public comment and notice.

Decision

After careful consideration, the California plan supplements described above are hereby approved under Part 1953 of this Chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In accordance with this decision, Subpart K of 29 CFR 1952 is amended by adding new paragraphs (d) and (e) as follows:

§ 1952.175 Changes to approved plans.

(d) In accordance with Subpart E of Part 1953 of this Chapter, California's liaison with the Occupational Health Centers, implemented on April 25, 1979,

was approved by the Assistant Secretary on July 25, 1980.

(e) In accordance with Subpart E of Part 1953 of this Chapter, the California Hazard Alert System, implemented in July, 1979, was approved by the Assistant Secretary on July 25, 1980.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C., this 21st day of July, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-23338 Filed 8-4-80; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 763

Rules Governing Public Access; Entry Regulations for Kaho'olawe Island, Hawaii

AGENCY: Department of the Navy, Department of Defense.

ACTION: Final rule.

SUMMARY: This rule sets forth regulations governing entry upon Kaho'olawe Island, Hawaii. These regulations limit entry upon Kaho'olawe Island to authorized persons because the island is used as a target area for bombing and gunnery practice in order to maintain and improve combat readiness of United States military forces.

EFFECTIVE DATE: August 5, 1980.

ADDRESS: Any written comment on these regulations should be sent to: Commander Third Fleet, Pearl Harbor, Hawaii 96860.

FOR FURTHER INFORMATION CONTACT: Commander Third Fleet (Code 01K), Pearl Harbor, Hawaii 96860, Telephone No. (808) 472-8209.

SUPPLEMENTARY INFORMATION: Entry Regulations for Kaho'olawe Island, as they existed prior to this revision, were published for advance public notice on January 4, 1978. On January 27, 1978 final publication was made, at which time continuing public comment with respect to the regulations was invited by the Department of the Navy. It has been determined, in accordance with 32 CFR 296 and 701.57, that advance publication of these regulations for additional public comment prior to their adoption is impracticable and unnecessary since the nature and national importance of naval operations on Kaho'olawe Island, as well as the dangerous conditions existing there, mandate the immediate, uninterrupted effectiveness of these

regulations. Interested persons, however, are again invited to comment in writing on these regulations. All written comments received will be considered in making subsequent amendments or revisions to Subpart A of Part 763, 32 CFR, or the regulations upon which they are based; and changes may be initiated on the basis of comments received.

Therefore, Title 32, CFR, is hereby revised as follows:

PART 763—RULES GOVERNING PUBLIC ACCESS

Subpart A—Entry Regulations for Kaho'olawe Island, Hawaii

Sec.

763.1 Purpose.

763.2 Definition.

763.3 Background.

763.4 Entry restrictions.

763.5 Entry procedures.

763.6 Violations.

Authority. 50 U.S.C. 797; DOD Dir. 5200.8 of August 20, 1954; 5 U.S.C. 301; 10 U.S.C. 6011. 32 CFR 700.702; 32 CFR 700.714; EXEC. ORDER NO. 10436, 3 CFR, 1949-1953 Comp. p. 930, (1958).

Subpart A—Entry Regulations for Kaho'olawe Island, Hawaii

§ 763.1 Purpose.

The purpose of this Subpart is to promulgate regulations for entry to Kaho'olawe Island, Hawaii, and its adjacent waters.

§ 763.2 Definitions.

For the purpose of this Subpart, Kaho'olawe Island includes that portion reserved for naval purposes by Executive Order No. 10436 of February 20, 1953.

§ 763.3 Background.

(a) Kaho'olawe Island is used by the armed forces of the United States as a bombing and gunnery training range under authority granted by Executive Order No. 10436. Training operations frequently involve the use of live ordnance creating an obvious danger to persons on or near the Island. Moreover, a large amount of unexploded ordnance is present on Kaho'olawe Island and in adjacent waters.

(b) Individuals who enter the Island without authority expose themselves to extremely hazardous conditions. In addition, the presence of unauthorized persons on Kaho'olawe Island or in adjacent waters is likely to interfere with the use of the island for military training. Accordingly, it is necessary to prohibit entry to Kaho'olawe Island except under the controlled circumstances set forth in this Subpart.

§ 763.4 Entry restrictions.

(a) Entry by any person upon Kaho'olawe Island for any purpose is prohibited unless the entrant has obtained advance authorization from Commander Third Fleet.

(b) Entry by any person into the restricted waters adjacent to Kaho'olawe Island for any purpose is prohibited without advance authorization from Commander Third Fleet. This restriction applies to all waters described in 33 CFR § 204.223(4).

§ 763.5 Entry procedures.

(a) Persons not otherwise authorized by Commander Third Fleet to enter Kaho'olawe Island or its adjacent waters may request permission to do so by writing to: Commander Third Fleet, Pearl Harbor, Hawaii 96860.

(b) Each request for entry shall state the purpose of the requested visit, the number of individuals for whom entry is sought, mode of transportation, expected arrival time, desired duration of stay, and the destination of all persons while on the Island or in the adjacent waters, and designation of persons in charge of the group. In evaluating the request, the factors just enumerated will be weighed against training commitments, safety requirements, and the amount and cost of military supervision necessitated by a granting of the request. Requests for entry will be considered on an individual basis. Because of the time required to process a request, it should be submitted as early as possible before the desired date of the visit. If a request is granted, the permission to enter Kaho'olawe authorizes one visit only and shall not be construed as authorization for more than one entry unless the authorization itself specifically states otherwise. Moreover, entry pursuant to advance consent which is not in accordance with the conditions and terms permitted by Commander Third Fleet shall be deemed a violation of this Subpart.

§ 763.6 Violations.

(a) Any person who violates this Subpart is subject to prosecution under Title 18, United States Code, Section 1382, which provides in relevant part:

Whoever . . . goes upon any . . . naval . . . reservation . . . for any purpose prohibited by law or lawful regulation . . . shall be fined not more than \$500 or imprisoned not more than six months, or both.

(b) Additionally, persons who violate this Subpart are subject to prosecution under the Internal Security Act of 1950 (50 U.S.C. 797), violations of which may result in a maximum penalty of

imprisonment for one year, or a fine of \$5,000, or both.

Dated: July 30, 1980.

P. B. Walker,
Captain, JAGC, U.S. Navy, Deputy Assistant
Judge Advocate General (Administrative
Law).

[FR Doc. 80-23545 Filed 8-4-80; 8:45 am]

BILLING CODE 3810-71-M

VETERANS ADMINISTRATION**38 CFR Part 21****Education Benefits; Flight Training**

AGENCY: Veterans Administration.

ACTION: Final Regulation.

SUMMARY: The regulation states more fully the rules applied by the Veterans Administration and the State approving agencies with regard to flight training. These rules have been applied in substantially the same form for some time, but the public has not been able to review them in a single publication. The inclusion of this material in the regulations will inform all interested persons and reduce confusion as to what must be done to approve courses for Veterans Administration educational assistance allowance.

EFFECTIVE DATE: July 25, 1980.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202-389-2092).

SUPPLEMENTARY INFORMATION: On pages 13128-13131 of the **FEDERAL REGISTER** of February 28, 1980, there was published a notice of intent to amend part 21 to state more fully Veterans Administration policy concerning flight training.

Interested persons were given 30 days in which to submit comments, suggestions or objections regarding the proposal. The Veterans Administration received six letters containing several comments and suggestions.

One writer found the regulations "clear, understandable and reasonable." He recommended their adoption without change.

Several writers stated that they thought these regulations were circumventing the provision of law (38 U.S.C. 1782) which prohibits any agency of the Federal government from supervising or controlling a State approving agency.

Although this regulation has been included in an area of Title 38, Code of

Federal Regulations which generally deals with approvals, the regulation does not itself deal with approvals for the most part, but instead contains provisions which ensure that training is given in compliance with Federal law. The Veterans Administration, State Approving Agencies and flight schools long have followed these provisions which are based, in part, upon regulations promulgated by the Federal Aviation Administration. The specific sections of the law which the Veterans Administration administers that support the various provisions of the regulation are stated in the regulation itself.

One person thought that the records which schools must keep would violate the Privacy Act. Of course, the Veterans Administration is bound by the Privacy Act. However, the law (38 U.S.C. 1790(c)) states that, "notwithstanding any other provision of law, the records and accounts of educational institutions pertaining to eligible veterans or eligible persons who received educational assistance . . . as well as the records of other students which the Administrator determines necessary to ascertain institutional compliance with the requirements [of the law], shall be available for examination by duly authorized representatives of the Government." The records required by this regulation are those the Administrator has determined are necessary to ascertain a flight school's compliance with the law.

This same provision of the law is also the reason flight schools are required to keep individual instructor records and to disclose enrollment under Part 61, Title 14, Code of Federal Regulations. One commenter objected to these requirements.

The same commenter objected to the requirement that flight schools give credit for prior training. He stated this was contrary to Federal Aviation Administration regulations. Although Part 141, Title 14, Code of Federal Regulations does not require this, it also does not prohibit this. The law (38 U.S.C. 1775(b) and 1776(c)) which the Veterans Administration administers requires that schools give credit for prior training. Accordingly, this provision is retained in the final regulation.

One commenter stated that in light of VA-sponsored legislation this proposal is ill-timed. Presumably, he was referring to the fact that for several years the Veterans Administration has favored eliminating payments for flight training. Flight training has not been eliminated, however. These regulations are necessary to administer this program.

Another commenter complained that standards for employment and graduation, which he said were contained in the regulation, were more stringent than the standards for veterans in other types of programs. He stated that this would inhibit the recruitment, training and employment of pilots.

The Veterans Administration has no desire to inhibit the employment of pilots. This letter is somewhat puzzling since there are no employment criteria in the regulation. The Veterans Administration, therefore, sees no reason to change the regulation.

Another writer thought the statement that flight schools must keep copies of medical certificates to support a veteran's prior training, required the school to have on hand medical certificates for training the veteran may have had at another flight school. This is not the case. The school should keep only copies of medical certificates needed to support training taken at the school.

Two writers objected to the records flight schools are required to keep because they thought the records were duplicative.

In order for payments to be made to veterans for flight training, the veteran and an official of his or her flight school must certify the flight instruction furnished the veteran each month. The certification includes the type of instruction, horsepower, hours, the rate the veteran was charged per hour and the total amount he or she was charged.

This certification ensures that veterans in flight training are neither underpaid nor overpaid but are paid correctly. The records mentioned in the regulation are necessary to verify the accuracy of the certification.

For example, the same writer who was concerned about medical certificates did not think that it is necessary for flight schools to keep invoices since they are required to certify charges anyway. The Veterans Administration appreciates this point of view. However, it has been the agency's administrative experience that flight schools have certified incorrect charges on the monthly certification. For the most part this was done inadvertently, but in some cases this was done deliberately. These errors were discovered only when Veterans Administration employees checked the invoices. Therefore, the agency has decided to retain this requirement in the final regulation.

Another writer stated that keeping a veteran's daily flight log is too burdensome. It is true that the veteran's flight log duplicates somewhat the progress log. However, information in

the flight log such as the total time of flight, type and identification of aircraft, and instruction received from the flight instructor, can be used to cross-check the progress log. Both logs can be used to verify the monthly certification of flight training. Accordingly, the Veterans Administration has decided to include this requirement in the final regulation.

The proposed amendment to § 21.4263 is deemed proper, and is hereby approved.

Approved: July 25, 1980.

Max Cleland,
Administrator.

§ 21.4262 [Amended]

1. Section 21.4262 is amended to delete the word "he" and to add the words "he or she" in paragraphs (b)(6) and (c) (2) and (4) and to delete the word "him" and to add the words "him or her" in paragraph (b)(7) and (c)(7).

2. Section 21.4263 is revised to read as follows:

§ 21.4263 Flight training—38 U.S.C. ch. 34, ch. 32.

(a) *Eligibility.* Veterans and service persons who are basically eligible to receive educational assistance allowances under the provisions of either chapter 34 or chapter 32, title 38, United States Code, may receive educational assistance for flight training provided that the individual also:

(1) Possesses a valid private pilot's certificate, except for flight training under paragraph (b)(3) of this section, but if the individual possesses a valid higher license, such as commercial pilot's license, he or she will be deemed to meet this requirement, and

(2) Meets the medical requirements of a commercial pilot's license, except the individual training in a course specified under paragraph (b)(3) of this section. A student pursuing an ATP (Airline Transport Pilot) course must have a first-class medical certificate. Students training in a course specified under paragraph (b)(3) of this section shall possess the medical certificate required by the educational institution granting the degree. In all other courses at least a second class medical certificate is required. The certificate shall be approved by the FAA (Federal Aviation Administration) and a copy shall be maintained by the school. Any benefits paid during a period after a medical certificate expires will be considered an overpayment subject to recovery. (38 U.S.C. 1677 (a))

(b) *Objective—general.* Pursuit of flight training may be approved if the training is:

(1) Generally accepted as necessary for the attainment of a recognized

vocational objective in the field of aviation,

(2) Generally recognized as ancillary to the pursuit of a vocational endeavor other than aviation, as provided in paragraph (c) of this section, or

(3) Given by an educational institution of higher learning for credit toward a standard college degree which is being pursued by the individual. (38 U.S.C. 1677 (a))

(c) *Ancillary flight objective.* A student may be authorized to pursue flight training when such training is generally recognized as ancillary to the pursuit of a vocation other than aviation.

(1) He or she must possess a valid private pilot's license and meet medical requirements necessary for a commercial pilot's course.

(2) The training may consist of any advanced flight course, approved by the State approving agency, that will aid in the practice of the chosen profession or vocation. A determination of the sufficiency of the purpose which the student sets forth as the reason for seeking to pursue ancillary flight training is a question of fact to be decided on an individual basis. In most cases, the student's own statement will be the only evidence to be considered: for example, a physician, lawyer, rancher, or salesperson may need to fly a private plane in connection with the conduct of the profession or business and may need an instrument rating so as not to be limited by visual flight conditions, or a multi-engine rating in order to fly a company-owned aircraft (38 U.S.C. 1677(a))

(d) *Optional ratings.* Educational assistance may be paid for glider, free balloon or aerobatic flight training leading to a vocational objective. If a veteran or inservice student requests a commercial pilot's program in gliders or free balloons in order to add one of those ratings to an existing commercial pilot's certificate or wishes to pursue an approved special curriculum in aerobatics, he or she must establish that the purpose in taking the course is vocational rather than recreational or avocational. Evidence submitted by the student may include, but is not limited to, statements from the flight school or from a prospective employer of the student.

(1) If the student already holds a commercial pilot's certificate for glider and requests a flight instructor course for glider, the program may be approved, since it may be presumed that the student's purpose in taking the course is vocational.

(2) If the student applied for training in a commercial pilot's (free balloon)

course and shows an objective of flight instructor (free balloon), the student will not be required to furnish justification that the course is vocational since the holder of a commercial pilot's (free balloon) certificate has authority to give instruction in free balloon. (38 U.S.C. 1677(a))

(e) *Combined flight courses.* (1) Under Part 141, Title 14, Code of Federal Regulations, the FAA (Federal Aviation Administration) regulations, revised, effective November 1, 1974, students may receive both a commercial pilot's certificate and an instrument rating upon successful completion of the commercial pilot's course, Appendix D, Part 141, Title 14, Code of Federal Regulations includes the ground and flight instruction for the private pilot's course (Appendix A) and ground and the flight instruction for the instrument course (Appendix C).

(2) If the school elects to include all the training specified in the instrument course (Appendix C) in its commercial pilot's course, and so states in the training course outlined, the student may then be issued a graduation certificate for the instrument rating course, and, after meeting the experience requirements of Section 61.65(e), Title 14, Code of Federal Regulations, (200 hours), apply for an instrument rating. The student may elect to take both the commercial flight test and instrument flight test on the same day and, after successful completion of both tests, be issued an unlimited commercial pilot's certificate.

(3) If the school does not include all of the instrument training in the commercial pilot's course, the student, upon completion of the FAA practical tests, will receive a commercial pilot's certificate with cross-country and night-flight limitations. The separate instrument course of revised Appendix C, Part 141, Title 14, Code of Federal Regulations, may still be approved for veterans and inservice students who completed the commercial pilot's course under old Part 141, Title 14, Code of Federal Regulations which was effective prior to November 1, 1974, who received a limited commercial pilot's certificate under revised Part 141, Title 14, Code of Federal Regulations, or who are enrolling in the instrument course under the ancillary course provisions. (38 U.S.C. 1677)

(f) *Application.* An individual applying for a course of training consisting exclusively of flight training must include on the application all courses generally accepted as necessary to reach the objective of the student. Although more than one course may be included in a program, the courses may

be taken sequentially only. The applicant must complete a commercial pilot's course before enrolling in any other flight course, except where advanced courses are approved as ancillary to the pursuit of a vocation other than aviation. (38 U.S.C. 1671).

(g) *Prior training.* (1) A flight school must grant appropriate credit for all previous training and shorten the veteran's flight course proportionately for Veterans Administration purposes even when an FAA regulation indicates that it does not have to do so. The flight school to which the veteran transfers will determine the amount of credit to be granted.

(2) Although the law does not define "appropriate credit", a pattern of not granting adequate credit is a violation of 38 U.S.C. 1775(b) or 1776(c)(4). If any school consistently abuses its discretion in this respect, the Veterans Administration will refer the matter to the appropriate State approving agency.

(3) An eligible veteran or inservice student holding a commercial pilot's certificate (rotorcraft) may pursue training to qualify for a general commercial pilot's certificate, including fixed-wing aircraft, by either enrolling in a regular commercial pilot's course (airplane), or in a special add-on course to qualify for an airplane rating. If he or she enrolls in a regular commercial pilot's course (airplane), the school must grant appropriate credit and shorten the course accordingly. Although credit is granted, this method usually requires more hours and is, therefore, more expensive than enrolling in a special add-on-course for the rating. In a like manner, a person with a fixed-wing rating may pursue training to qualify for a rotorcraft rating. If a school offers an approved add-on course for commercial pilots in which an eligible veteran may enroll to reach the objective, he or she will not be permitted to enroll at the school in the regular commercial pilot's course unless the regular course will be less expensive after credit is allowed for prior training.

(4) A former military pilot with the equivalent of a commercial pilot's certificate and instrument rating may obtain an FAA commercial pilot's certificate and instrument rating without flight examination within 12 months after release from active duty flying status. If he or she does not apply within the 12-month period, he or she may need refresher training before taking the flight examination. No Veterans Administration benefits may be paid for any such refresher training taken within the 12 months immediately following discharge, since the person qualifies for the commercial pilot's certificate and

instrument rating without a flight examination. However, such a person may be paid for up to 6 months' refresher training if the refresher training takes place more than 12 months after discharge.

(i) Flight instructor and ATP ratings are not given by the FAA, on the basis of military experience only, without flight examination. Therefore, former military pilots may be enrolled in approved flight instructor and ATP training courses, for such enrollment is not considered refresher training. Flight schools must grant appropriate credit to former military pilots.

(ii) A veteran who held an FAA certificate before or during service (such certificate having been canceled or surrendered) may receive educational assistance for refresher training to again qualify for the same grade certificate. Such refresher training must meet the requirement of updating the veteran's knowledge and skill in order to cope with technological advances while he or she was in service, as required by § 21.4230(c)(2). The veteran may receive either the equivalent of 6 months educational assistance or the equivalent of the number of months of educational assistance necessary for the veteran to complete the course which will qualify him or her for the same grade certificate, whichever is less. (38 U.S.C. 1671, 1682(d))

(h) *Requirements for approval.* For the purpose of this section a flight school is a school or entity to which the FAA has issued either a pilot school certificate or a provisional pilot school certificate specifying each course the school is approved to offer under Part 141, Title 14, Code of Federal Regulations, as revised. Thus, a military aero club, air carrier or institution of higher learning with the proper certificate is a flight school for the purpose of this section.

(1) The proper State approving agency for approving a flight course shall be determined by § 21.4250. An aero club, established, formed and operated under authority of service department regulations as a nonappropriated sundry fund activity, is an instrumentality of the Federal Government. Consequently, approval of flight courses offered by such aero clubs shall be under the authority of the Administrator. See § 21.4150(f). (38 U.S.C. 1771, 1772)

(2) A course of flight training leading to a standard college degree may be approved regardless of whether the institution of higher learning offering the course is a flight school. Such a course may include private pilot training, but may not be approved unless the requirements of § 21.4253 or 21.4254, as appropriate, are met. Except for courses

which include private pilot training an institution of higher learning which is also a flight school may also seek approval under paragraph (h)(3) of this section. (38 U.S.C. 1775, 1776).

(3) Except as provided in paragraph (h)(2) of this section no private pilot or test course offered pursuant to Appendixes A and B, Part 141, Title 14, Code of Federal Regulations, as revised, may be approved. Except for flight courses offered by institutions of higher learning which are approved under paragraph (h)(2) of this section, other flight courses of a flight school may be approved by the appropriate State approving agency when the school has submitted a written application and the State approving agency determines that all of the following requirements are met by the school and the course(s):

- (i) The provisions of § 21.4253(a) or 21.4254(c) are met. (38 U.S.C. 1775, 1776)
- (ii) The courses are offered under Part 63 or Part 141, Title 14, Code of Federal Regulations, as revised. (38 U.S.C. 1677)
- (iii) The course is approved by the FAA. (38 U.S.C. 1677)
- (iv) The flight school courses meet all the requirements of § 21.4251.

(A) Notwithstanding the fact that the FAA will permit flight schools to conduct training at a base other than the main base of operations if the requirements of FAA regulation, section 141.91, Title 14, Code of Federal Regulations, as revised, are met, the requirements of § 21.4251 must be applied to a course offered at a satellite base.

(B) A private pilot's course is not similar in character to any advanced flight course within the meaning of the exception to the 2-year operation requirement of 38 U.S.C. 1789(b)(2). Any advanced flight course may be considered to be similar in character to any other advanced flight course.

(C) A period during which training has been offered pursuant to part 61, Title 14, Code of Federal Regulations, will be considered in determining whether the course meets the requirements of § 21.4251. (38 U.S.C. 1789)

(v) The school has, and enforces, standards of conduct and progress for students. The standards are to be stated in writing as part of the application for approval. (38 U.S.C. 1674)

(vi) The school has an adequate system of records. Records to be kept should consist of at least the following:

- (A) A copy of the private pilot's license of each eligible veteran,
- (B) Evidence that each eligible veteran has completed any prior training which may be a prerequisite for the course,
- (C) A copy of the medical certificate required by paragraph (a)(2) of this

section for the course being pursued by each eligible veteran as well as copies of all medical certificates (expired or otherwise) needed to support all periods of prior instruction,

(D) Each eligible veteran's daily flight log or copy thereof,

(E) Each eligible veteran's permanent ground school record,

(F) A progress log for each eligible veteran,

(G) An invoice of flight charges for individual flights,

(H) Daily flight sheets identifying records upon which the 85-15 percent ratio may be computed,

(I) A continuous hour meter record for each aircraft,

(J) Invoice or flight tickets signed by the student and instructor showing hour meter reading, type of aircraft and aircraft identification number,

(K) An accounts receivable ledger,

(L) Individual instructor records,

(M) Engine log books,

(N) A record for each student above the private pilot level stating the name of the course in which the student is currently enrolled and indicating whether the student is enrolled under Part 61, Part 63, or Part 141, Title 14, Code of Federal Regulations, as revised,

(O) Records of tuition and accounts which are evidence of tuition charged and received from all students,

(P) All other records required by Part 141, Title 14, Code of Federal Regulations, as revised. (38 U.S.C. 1790 (c))

(vii) If a flight school offers more than one course leading to the same objective, the course should be appropriately identified in the school's bulletin and in all school records. (38 U.S.C. 1772)

(viii) All flight instruction, preflight briefings and postflight critiques and ground school training in the course are given by the flight school operator, by persons he or she employs, or under suitable arrangements between the school and another school or entity such as an independent contractor or a local community college. Ground school training may be given through a ground school facility operated jointly by two or more flight schools in the same locality. See § 21.4233(e). (38 U.S.C. 1677)

(ix) All ground school training connected with the course is in residence under the direction and supervision of a qualified instructor providing an opportunity for interaction between the students and the instructor. A mere statement by the school that an instructor is available for questions does not satisfy this requirement. The flight school operator may not leave the

obtaining of such instruction to the individual student. (38 U.S.C. 1677)

(x) The requirements of § 21.4233(e) must be met for all contracted flight instruction and ground school training.

(A) The responsibility for providing the instruction lies with the flight school which seeks approval for the flight course. The degree of affiliation between the flight school and the individual group, or other school which actually does the instructing, should be such that all charges for instruction are made by, and paid to, one entity having jurisdiction and control over both the flight and ground portions of the program. All reports of attendance and certifications of charges must be made by this single entity.

(B) The contracted portion of the flight course must meet all the requirements of § 21.4201 independently for each subcontractor. (38 U.S.C. 1772)

(i) *Hourly limitations.* A flight course approved pursuant to paragraph (h)(3) of this section shall be approved only for those hours of instruction generally considered necessary for a student to obtain an identified vocational objective. This requirement is met only if the number of hours approved does not exceed the maximum set forth in paragraph (i) (1) through (3) of this section. An eligible veteran may receive training for up to 10 percent more hours than are approved as part of a course whenever this is permitted by § 21.4277. Flight instruction may never be substituted for ground training. (38 U.S.C. 1652(b))

(1) *Flight instruction.* The maximum number of hours of flight instruction which may be approved for a flight course shall not exceed the number of hours in the course outline approved by the FAA plus, for courses which require the student to lease an aircraft for the final flight test after the approved course has been successfully completed, a maximum of 2 hours payable at the solo rate for the final flight test for each certificate or rating for which the flight course provides training. (38 U.S.C. 1652(b))

(2) *Ground school.* The ground training portion of a flight course may include two forms of ground training instruction: ground school and preflight briefings and postflight critiques. The minimum hours for ground training, as specified in Appendixes C through H, Part 141, Title 14, Code of Federal Regulations, as revised, refer only to ground school and not to preflight briefings and postflight critiques. If the ground school training consists of units using kits containing audio-visual equipment, quizzes and examinations, the maximum number of units approved

shall not exceed the number on the course outline approved by the FAA. For all other ground school training, the number of hours of training shall not exceed the number of hours on the course outline approved by the FAA. (38 U.S.C. 1652(b))

(3) *Preflight briefings and postflight critiques.* Hours spent in preflight briefings and postflight critiques need not be approved by the FAA.

(i) If these hours are on the FAA-approved outline, the maximum number of hours of preflight briefings and postflight critiques which may be approved shall not exceed the number of hours on the outline.

(ii) If these hours are not on the FAA approved outline, they may not be approved unless the State approving agency finds that the briefings and critiques are an integral part of the course. The maximum number of hours of preflight briefings and postflight critiques which may be approved for these courses may not, when added together, exceed 25 percent of the approved hours of flight instruction. (38 U.S.C. 1652(b))

(j) *Charges.* Charges for tuition and fees shall be approved by the appropriate State approving agency for each flight course. (38 U.S.C. 1772)

(1) The approved charges for tuition and fees shall be based upon the charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight course are required to pay. Charges for books, supplies and lodging may not be reimbursed. (38 U.S.C. 1677(b))

(2) For the ground school portion of ground training, the State approving agency should approve group charges or unit prices if audio-visual equipment is used. For the preflight briefings and postflight critiques, the State approving agency should approve individual instructor rates for individual training flights. An average charge per hour based upon total hours and cost of all training given on the ground may not be approved. (38 U.S.C. 1677(b))

(3) When solo hours are included for the leasing of an aircraft for the final flight test, the solo charge should be noted in the approval. (38 U.S.C. 1677(b))

(4) A veteran or group (all or part of which are veterans) owning an airplane may lease it to an approved flight school and have exclusive use of the aircraft for flight training. The aircraft should meet the requirements prescribed for all airplanes to be used in the course and should be shown in the approval by the State approving agency. The leasing arrangement should not result in charges for flight instruction for those owning the plane greater than charges made to

others not leasing an aircraft to the school. (38 U.S.C. 1677(b))

(5) If membership in a flight club entitles a veteran to flight training at less than the standard rate, his or her educational allowance will be based on the reduced rate. No payments will be made for the cost of joining the flight club, since it is not a charge for the flight course. (38 U.S.C. 1677(b))

(k) *Substitute aircraft.* Except for minor substitutions a veteran enrolled in a flight course may train only in the aircraft approved for that course. If a particular aircraft is not available for some compelling reason, the veteran may be permitted to train in an aircraft different from that approved for the particular course, provided the aircraft substituted will adequately meet the training requirements for this particular phase of the course. Substitutions should be explained on the monthly certifications of flight training. If this shows that the charge for the substituted aircraft is different from the charge approved for the regular aircraft, the reimbursement will be based on the lesser charge. When substitution becomes the practice rather than the exception, payments will be suspended by the Veterans Administration, and the veterans and the school notified. The matter will be referred by the Veterans Administration to the State approving agency for appropriate action. (38 U.S.C. 1677, 1773(a))

(1) *Enrollment limitations.* The 85-15 percent ratio requirement set forth in § 21.4201 must be met by flight courses before new enrollments may be approved. (38 U.S.C. 1673(d))

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300023A; FRL 1560-6]

Aluminum Hydroxide; Tolerances and Exemption From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This Rule establishes an exemption from the requirement of a tolerance for the inert (or occasionally active) ingredient aluminum hydroxide in pesticide formulations. The regulation was requested by Ralph Fogleman. This regulation will permit the registration of

pesticide formulations containing aluminum hydroxide.

DATE: Effective on August 5, 1980.

ADDRESS: Send comments to Gary Burin, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, Rm. 816, Crystal Mall #2, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Gary Burin, telephone 703-557-7351.

SUPPLEMENTARY INFORMATION: Notice was published on May 30, 1980 (45 FR 36439) that several interested person proposed to amend 40 CFR 180.1001 by exempting aluminum hydroxide, which is an inert (or occasionally active) ingredient in pesticide formulations from tolerance requirements. No comments or requests for referral to an advisory committee were received by the Agency with regard to this notice. It has been concluded that the amendment will protect the public health and, therefore, that the amendment to the regulation should be adopted as set forth below.

Any persons adversely affected by this regulation may on or before September 4, 1980 file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M Street, SW, Washington, DC 20460.

Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408 (e), 62 Stat. 514, (21 U.S.C. 346a(e))

Dated: July 30, 1980.

James N. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart D of 40 CFR Part 180 is amended by alphabetically inserting "Aluminum hydroxide * * *" in the table in paragraph (c) of § 180.1001 to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

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