



July 28, 20165
9:30 – 10:00 A.M.
601 South 12th Street
Arlington, VA 22202

Meeting Minutes

Summary: This meeting was conducted via conference call to discuss a proposed report to revise 49 CFR 1552 on the Alien Flight School Program (AFSP). This proposed report was initially discussed at the ASAC meeting on May 10. After discussion the Committee requested the General Aviation Subcommittee to revise the report to include an executive summary, statement of the problem for each of the five recommendations, and other issues identified by the members. The Subcommittee revised the proposal and worked through issues with several groups, including ALPA, CAPA and AFA.

Meeting Comes to Order, Closed Session

Dean Walter, the Aviation Security Advisory Committee (ASAC) Designated Federal Officer (DFO), called the meeting to order and explained his responsibility to ensure the meeting complied with the Aviation Security Stakeholder Participation Act of 2014. The meeting was closed to the public and only ASAC members and federal officials could participate. Attachment A provides a complete list of meeting participants.

Alien Flight School Regulations, Jens Hennig

After some brief opening comments from the ASAC Chairman and DFO, the meeting was turned over to Jens Hennig, Chairman of the General Aviation Subcommittee. Mr. Hennig discussed changes to the proposed report (Attachment B) since the last meeting. Joe DePete, supported by Bill Cason, had some concerns related to the frequency of vetting and felt a blanket five-year term was not frequent enough to manage risk. Chris Witkowski also raised concerns related to the report's reference to GAO Audit Recommendations that are not available to the public. Mr. Witkowski also asked for additional detail on a requirement for security awareness training for employees of flight schools. Mr. Witkowski would also like to see the proposed report recommend a requirement for flight schools to notify the appropriate Federal agency when persons attempt to pursue initial flight training in large aircraft. Currently it is expected that flight schools would provide such notification based on their security awareness training.

The DFO stated that the proposed report would require a Notice of Proposed Rulemaking to implement, since the current program is regulatory. Public comment is part of this process and everyone would have other chances to comment on proposed regulatory changes.



Mr. Walter asked if there were any further comments. Hearing none, he confirmed a quorum was participating on the call (17 members participated). A motion was offered to approve the proposed report, which was seconded. Mr. Alterman asked Mr. Witkowski to draft a dissenting view, which will be included in the transmittal letter to the TSA Administrator, if he felt unable to support the report as proposed (Attachment C). Mr. Walter conducted a vote that resulted in approval of the recommendation, with 15 yeas, 1 nay, and 0 abstentions.

Adjournment

Mr. Alterman asked for any last comments, and with none received adjourned the meeting at approximately 10:00 A.M. EST.

Summary of Action Items: Chris Witkowski to provide dissenting view to S. Alterman, for inclusion in the transmittal letter.

Certification of Detailed Minutes

I hereby certify that this is an accurate record of the activities of the Aviation Security Advisory Committee on July 28, 2016.

A handwritten signature in black ink that reads "Stephen A. Alterman". The signature is written in a cursive style and is positioned above a horizontal line.

Stephen A. Alterman
Chairman



Attachment A
Meeting Attendees

Name	Organization	Status
Steve Alterman	Cargo Airline Association	Member
David Borer	AFGE	Member
Scott Broyles	National Safe Skies Alliance	Member
Bill Cason	Coalition of Airline Pilots Associations	Member
Colleen Chamberlain	American Association of Airport Executives	Member
Liam Connolly	Regional Airline Association	Member
Joe DePete	Airlines Passenger Association	Member
Daniel Fisher	Aeronautical Repair Station Association	Member
Anthony Graziano	United Brotherhood of Carpenters	Member
Jillian Gustafson	National Air Disaster Alliance	Member
Jens Hennig	General Aviation Manufacturers Association	Member
Lorraine Howerton	US Travel	Member
Glenn Johnson	Victims of Pan Am Flt 103	Member
John McGraw	National Air Transport Association	Member
Susan Presti	The International Air Cargo Association	Member
TJ Schulz	Airport Consultants Council	Member
Chris Witkowski	Association of Flight Attendants – CWA	Member
Dean Walter	DHS/TSA Designated Federal Official	Federal



**Attachment B: FINAL REPORT OF THE AVIATION SECURITY ADVISORY
COMMITTEE'S**

**GENERAL AVIATION WORKING GROUP
REVIEW OF 49 CFR 1552 – FLIGHT SCHOOLS**



Executive Summary

The Aviation Security Advisory Committee (ASAC) has reviewed the 49 CFR 1552 regulation and its associated policies and program with the objective of making the program more effective and efficient by which security will be enhanced. The ASAC provides two sets of recommendations:

One that proposes that the Transportation Security Administration (TSA) conduct rulemaking to implement Risk-Based Security (RBS) in the regulation that governs flight training of foreign nationals and certain designated individuals. This recommendation modernizes the program by incorporating lessons learned into the regulation based on the dozen years during which the program has been operated by TSA. It also addresses issues that result in inefficient use of both agency and industry resources. This recommendation contains a draft rewrite of the 49 CFR 1552 regulation as a starting point for the TSA's rulemaking activities.

Recommendations 1: The ASAC recommends that the TSA conduct rulemaking to amend 49 CFR 1552, based on RBS principles, and shift the Security Threat Assessments of Candidates from being based on a training event to being based on time since the last STA. Any training events, as identified by the TSA, should be notified to the agency with appropriate biographical information about the Candidate.

The second set of recommendations provides input to the TSA about how to strengthen the existing program by issuing policy for how certain vetting should be conducted including considerations that address industry business practices that are not completely addressed in the existing program.

Industry and TSA have long encountered inconsistencies with how wet and dry equipment lease contractual arrangements should be structured and the type of record keeping flight training providers should adhere to in order to comply with agency's requirements.

Recommendation 2: The TSA should update the policy for record keeping requirement to reflect the wet and dry lease process as well as non-U.S. Air Carrier / non-U.S. pilot candidate support process outlined in section 4.2.2.1, 4.2.2.2., and 4.2.2.3 of this report.

The regulation currently provides a mechanism for the Department of Defense to endorse flight training candidates without processing the person's information through the AFSP portal. Findings point to an opportunity to strengthening this process by integrating the DOD endorsed candidates fully into the existing AFSP portal.

Recommendation 3: TSA should update the regulation to reflect the 2012 policy change to not only encourage, but require the use of the AFSP portal for Department of Defense (DOD) endorsed flight training candidates.



Industry and worked with the TSA over the past decade to identify the types of events that qualify as training in the existing program. The TSA should, as part of any rulemaking leverage the experience gained with this list of training events to help inform how and when any future program vetting and notifications should be conducted.

Recommendation 4: The ASAC recommends that the TSA publish a complete list of those training events that would require notification. The agency should align this policy with September 2010 policy interpretation of “Recurrent Training” and Changes to the Security Threat Assessment Process for Recurrent Training”

Finally, the ASAC recommends that the TSA increase its cooperation with other Department of Homeland Security (DHS) agencies, including specific Immigration and Customs Enforcement (ICE), and the Department of State to improve security and increase consistency for visa policy while at the same time reducing certain inefficiencies encountered for flight training candidates and the industry.

Recommendation 5: The ASAC encourages TSA to work closely with other DHS agencies, including Immigration and Customs Enforcements, and the Department of State to provide improved clarity regarding visas applicable to flight training candidates including candidates in the United States for non-flight training purposes (e.g., H, F or permanent residents).



Table of Contents

1.0 Background – Review of History and Implementation of 49 C.F.R. § 1552

2.0 Requirements for Vetting Pilots

3.0 The U.S.-Regulated Flight Training Industry and Training of Foreign Nationals

4.0 Overview of Recommended Changes to 49 C.F.R. § 1552 and its Policy Framework

4.1 Expanding Risk Based Security Principles into Vetting for Alien Flight Training Candidates

4.2 Other Technical Changes and Definitions to Address Vetting of Foreign Nationals

4.2.1 Adding additional criminal disqualifying factors and look-back.

4.2.2 Clarifying wet lease / dry lease compliance responsibilities

4.2.2.1 Wet Lease – Recommended Process

4.2.2.2 Dry Lease – Recommended Process

4.2.2.3 Non-U.S. Air Carrier; non-U.S. Pilot Candidate Support – Recommended Process

4.2.3 Requirements for photo submission for training event.

4.2.4 Updating regulation based on policy for DOD endorsements

4.2.5 Clarifying what events require notification within STA validity period

4.2.6 Assessing difficulties meeting fingerprinting requirements

4.2.7 Establishing mechanism to qualify flight schools and visa implications

4.3 Vetting of U.S. Citizens

5.0 Draft Amended 49 C.F.R. § 1552

Appendices

A – Working Group Membership and TSA Participation

B – List of Meetings

C – Draft TSA White Paper about Alien Flight Training Proposed Rulemaking



1.0 Background – Review of History and Implementation of 49 C.F.R. § 1552

Shortly after September 11, 2001, Congress enacted the Aviation and Transportation Security Act (ATSA), tasking the U.S. Department of Justice (DOJ) with the vetting of persons seeking flight training in the United States. But DOJ failed to implement a regulatory framework that effectively and efficiently processed background checks for flight training candidates. Congress transferred responsibility to DHS in the Vision 100—Century of Aviation Reauthorization Act of 2003, giving the task of vetting persons seeking flight training to the Transportation Security Administration (TSA), which already had been given authority to process background checks for a number of other sensitive functions, and requiring TSA to promulgate an interim final rule to implement the requisite threat assessment program and security awareness training.

TSA developed the current regulatory framework that governs flight training for aliens and other designated individuals, the Alien Flight Student Program (AFSP), 49 C.F.R. § 1552, was established in September 2004¹ as an interim final rule. The Department of Homeland Security (DHS) issued the long-awaited regulation without prior notice or comment in response to Section 612 of Vision 100—Century of Aviation Reauthorization Act.² Industry welcomed the establishment of the regulation as an important step forward, enabling flight training of foreign nationals in the United States to continue following the tragic events of September 11, 2001.

Industry has worked cooperatively with the TSA to ensure successful implementation of 49 C.F.R. § 1552. This cooperative activity included the development of various policies and guidance documents to clarify ambiguities in section 1552. These activities resulted in a more effective and efficient implementation of the requirements, but also a patch work policy, which at times has caused confusion.

In 2011, the General Aviation Manufacturers Association (GAMA) – in coordination with the Aircraft Owners and Pilots Association (AOPA) – submitted a response to DHS-2011-0015 Reducing Regulatory Burden; Retrospective Review Under Executive Order 13563. GAMA recommended that DHS undertake a comprehensive review of the AFSP, noting that “. . . the past seven years of experience gained by the TSA and industry will enable the development of an updated regulation and supporting program that will more effectively and efficiently carry out the security intent of Congress and the initial regulation while providing a practical and streamlined approach to the vetting of foreign nationals seeking flight training in the United States.” GAMA also proposed that the TSA establish a single threshold for vetting new pilots, as opposed to the existing four categories, and shift to a periodic vetting of existing pilots, under which a security threat assessment would be valid for up to one year and not require interim vetting for training events. GAMA also provided technical recommendations, several of which the TSA has implemented in policy documents.

¹ Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees, 69 Fed. Reg. 56324 (Sept. 20, 2004).

² Vision 100—Century of Aviation Reauthorization Act, P.L. 108-176, Dec. 12, 2003.



In 2011, the TSA began informal work with the flight training industry to assess a possible update to the regulation and provided industry a white paper containing the agency's initial thinking about how to reform the AFSP.³ The TSA held a listening session with industry to review opportunities to streamline the implementation of the new regulation in February 2012.

In July 2012, the House Committee Homeland Security, Subcommittee on Transportation Security held a hearing entitled "A Decade After 9/11 Could American Flight Schools Still Unknowingly Be Training Terrorists?"⁴ The hearing reviewed the existing AFSP, specific events that had occurred at a flight school, and recommendations for changes to the program. Specifically, the hearing focused on vetting of U.S. citizens and whether there were mechanisms in place to ensure that persons seeking flight training are subject to vetting prior to flying solo. Representatives from the Government Accountability Office (GAO)⁵, U.S. Immigration and Customs Enforcement (ICE)⁶, the TSA, GAMA, and the National Business Aviation Association all testified during the hearing.

- GAO's testimony focused on a Boston-area flight school⁷ operated by a person in the United States illegally. GAO had determined that a number of persons who trained at the school and had been subject to the AFSP requirements had entered the United States illegally or had overstayed the legal length of their visits. Other recommendations from the GAO were not made public.
- ICE's testimony focused on "Operation Clipped Wings," a federal immigration enforcement operation that involved three phases "aimed at mitigating the vulnerabilities identified in the AFSP and the critical infrastructure areas associated with aircrafts (sic)."⁸ ICE discussed overstays by "foreign nationals who have been identified in the AFSP database as having received flight training in the United States" and efforts to ensure proper immigration checks on FAA-certificated pilots.

In response to recommendations advanced during the hearing, the TSA worked with the other agencies to ensure that the AFSP – although not focused on visa compliance – also involves a review of the flight training candidate's legal status in the United States. The TSA also worked with other agencies to address recommendations provided to TSA about how vetting is conducted within the program. Additionally, in

³ Transportation Security Administration, Alien Flight Student Program, Proposed Rulemaking (Aug. 10, 2011) (see Appendix C).

⁴ <https://homeland.house.gov/hearing/subcommittee-hearing-decade-after-911-could-american-flight-schools-still-unknowingly-be/>.

⁵ Statement of Stephen M. Lord, General Aviation Security, "TSA's Process for Ensuring Foreign Flight Students Do Not Pose a Security Risk Has Weakness," (GAO-12-900T) (2012).

⁶ Statement of John P. Woods, Assistant Director, National Security Investigations, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

⁷ Abby Goodnough, "Immigrant's Pilot Lessons Spur Inquiry by the U.S.," *New York Times* (Nov. 5, 2010).

⁸ Id.



response to a GAO audit involving the Balanced Workforce initiative,⁹ the TSA federalized the contractors who had been doing the day-to-day vetting. The TSA also upgraded its IT infrastructure to make the technology more robust and efficient.

Following the 2012 hearing, then House Committee on Homeland Security Chairman Bennie Thompson introduced the Flight School Security Act of 2012, which would have expanded section 1552 vetting to all persons seeking flight training. Additionally, in 2013, draft legislation was circulated by minority staff on the Subcommittee on Transportation Security that would have required the vetting of all persons seeking flight training on large aircraft (i.e., any aircraft above 12,500 pounds), including U.S. citizens, if the “individual seeking such training [in large aircraft] does not hold a valid airman’s certification issued by the Federal Aviation Administration”, but this bill did not move.

At the 2014 October ASAC meeting, the GASC discussed its plans to undertake a review of the 1552 regulation. During the spring of 2015, the GASC solicited input from ASAC members about what areas it should address in its review. GASC then formally launched the review in July 2015. The GASC completed its review of the regulation and submitted this report to the ASAC for its May 10, 2016 meeting.

2.0 Requirements for Vetting Pilots

Enacted in the wake of the September 11th attack, ATSA¹⁰ required all foreign nationals seeking flight training in aircraft weighing 12,500 pounds or more to undergo DOJ background checks, called Security Threat Assessments (STAs), before commencing training. ATSA addressed the vetting of pilots in several areas:

- **Sec. 113 Flight School Security¹¹:** This section required DOJ to conduct background checks on aliens¹² seeking flight training in an aircraft having a maximum certificated takeoff weight of 12,500 pounds or more. Applicable training included in-flight training, training in simulators, and any other form or aspect of training. This section also established a requirement for security awareness training for employees of flight schools.
- **Sec. 129 Amendments to Airmen Registry Authority:** This section gave the FAA Administrator the authority to work with State and local authorities, and other Federal agencies, to identify individuals applying for or holding an airman certificate, including those agencies responsible for enforcing laws related to the regulation of controlled substances and combatting acts of terrorism.

⁹ GAO report GAO-13-65

¹⁰ Aviation and Transportation Security Act, P.L. 107-71 (Nov. 19, 2001).

¹¹ 49 U.S.C. § 44939.

¹² Alien includes individuals as defined in section 101(a)(3) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(3), and any other individual specified by the Secretary of DHS.



In response to this section, the FAA provides a daily data transfer of the FAA's Airmen Registry to other agencies for the purpose of vetting the names in the Registry.

As discussed, the Vision 100—Century of Aviation Reauthorization Act shifted the responsibility for vetting of foreign nationals from DOJ (the Attorney General) to DHS. Section 612 also amended the U.S. code in a number of other ways:

- (a)(1) Requires persons operating as flight instructors, pilot schools, or aviation training centers to notify the TSA that an alien or individual seeking training in aircraft having a maximum certificated take-off weight of more than 12,500 pounds and submit information to the TSA and processing of that information within 30 days.
- (a)(2) Requires TSA to notify the person or flight school if the requested training should not be conducted because the individual presents a risk to aviation or national security.
- (b) Establishes criteria for interrupting training.
- (c) Establishes a more limited requirement for notification if the training occurs in aircraft having a maximum certificated takeoff weight of 12,500 pounds or less.
- (d) Provides for expedited processing (no more than 5 days) for (1) persons holding an airman certificate of a foreign country (including military), (2) employees of foreign air carriers, (3) individuals already having unescorted access to secure areas, or (4) individuals who are "part of a class of individuals that the Secretary has determined that providing aviation training to presents minimal risk to aviation or national security because of the aviation training already possessed by such class of individuals."
- (e) Limits what is defined as "training" to activities in aircraft or aircraft simulators, exempting "recurrent training, ground training, or demonstration flights for marketing purposes."
- (f) Establishes the nonapplicability of the regulation to certain foreign military pilots that are endorsed by the Department of Defense.
- (g) Establishes authority for offset fees.
- (h) Reinforces existing authority for DHS to cooperate with other agencies in implementing the regulation.
- (i) Updates the security awareness training requirement for employees of flight schools.

The TSA published 49 C.F.R. § 1552, Flight Training for Aliens and Other Designated Individual; Security Awareness Training for Flight School Employees (Interim Rule) to implement Section 612. This regulation establishes four categories of flight training candidates:

- Category 1—Candidates who are not eligible for expedited processing for flight training in aircraft weighing greater than 12,500 pounds.
- Category 2—Candidates who are eligible for expedited processing for flight training in aircraft weighing greater than 12,500 pounds.
- Category 3—Candidates applying for flight training in aircraft weighing 12,500 pounds or less.
- Category 4—Candidates applying for recurrent training.



Candidates in Categories 1 through 3 are required to submit training information—such as the type of training requested—and identifying information, including fingerprints. Similar information is required for candidates in Category 4, but these individuals are not required to submit fingerprints. The preamble to 1552-regulation further reinforces that “Category 4 candidates are not required to submit fingerprints because TSA is not conducting a security threat assessment for them. The agency is only verifying that Category 4 candidates are applying for recurrent training. Thus, TSA does not require Category 4 candidates’ fingerprints.”¹³

Following the publication of 49 C.F.R. § 1552, the TSA requested and received comments from flight schools and trade associations representing flight schools, general aviation, and air carriers and also held several meetings with groups who represent the flight training industry to discuss concerns and requests for clarification. In response to the comments from stakeholders, TSA issued a notice of interpretation in January 2005¹⁴ under the authority of Assistant Administrator Chad Wolf.¹⁵ This notice clarifies several issues:

- Identifies what constitutes “flight training” in aircraft with an MTOW of 12,500 pounds or less, limiting it to training that a candidate could use toward:
 - (a) An initial pilot certificate, including a private, recreational, or sport pilot certificate.
 - (b) A multi-engine rating.
 - (c) An instrument rating.

The TSA defines flight training in this way in response to industry concerns about the number of threat assessments many alien flight student may be required to undergo in a short period of time. The TSA stated that “the agency’s threat assessment efforts are best focused on alien pilots who apply for such training” that “substantially enhance piloting skills.”

- Clarifies the information submission requirement for recurrent training candidates. Industry had argued that recurrent training does not enhance a pilot’s skills, but rather is designed to refresh skills that a pilot already possesses. The TSA alleviated some of the requirements for submitting information, including when photographs of the candidate should be submitted, and how a copy of the candidate’s passport, visa, and airman’s certificate be submitted via the Alien Flight Student website, by granting a blanket exemption to 49 C.F.R. § 1552.3(d)(2).

¹³ The preamble to section 1552 further reinforces that “Category 4 candidates are not required to submit fingerprints because TSA is not conducting a security threat assessment for them. The agency is only verifying that Category 4 candidates are applying for recurrent training. Thus, TSA does not require Category 4 candidates’ fingerprints.” 69 Fed. Reg. at 56327.

¹⁴ The public notice incorrectly lists the year as 2004.

¹⁵ Docket No. TSA-2004-19147-0337 (Jan. 5, 2005).



In 2009, the TSA worked with the flight training industry to update how STAs are conducted for recurrent training candidates. The work begun in response Section 543 of the Consolidated Security, Disaster Assistance and Continuing Appropriations Act of 2009, which required DHS to (1) establish a process to determine that an alien who takes recurrent training is properly identified and does not pose a threat to aviation, and (2) impose reasonable fees¹⁶ to recoup the cost of vetting recurrent training applicants. In September 2010, the TSA issued a notice titled “Interpretation of “Recurrent Training” and Changes to the Security Threat Assessment Process for Recurrent Training.”¹⁷

In this notice, TSA reviewed the types of activities that may be conducted in an aircraft or a simulator (without awarding a new certificate or rating) that do not constitute “recurrent training.” The notice reinforces that recurrent training is defined as “periodic training under 14 Code of Federal Regulations (CFR) part 61, 121, 125, 135, or subpart K of part 91” and does not include training that “would enable a candidate who has a certificate for a particular aircraft to receive a certificate or type rating for another aircraft.”¹⁸ The notice also provides a comprehensive list of specific activities for which a Category 4 submission is not required.¹⁹ Additionally, the notice states that recurrent training candidates who have undergone a successful STA within the previous year may begin recurrent training without waiting for the results of a new STA once TSA accepts all documentation. The notice does not, however, state that such candidates are exempt from paying the STA fee, as requested by industry.

The experience with the “Permission to Initiate Training” policy has been positive, but industry still encounters increases in processing times during certain times. These increases in processing time may be caused by changes to the TSA’s staffing, seasonal issues, and other program changes.

Year	# Cat 4 Submitted	# Permission to Train	% Permission to Train	Average Time	Initial Review
2011	7,221	3,950	54.7%	1.51	1.50
2012	7,937	4,190	56.6%	1.37	1.38
2013	7,862	4,089	52.0%	1.51	1.54
2014	7,968	4,379	55.0%	3.26	3.74
2015	7,616	4,210	55.3%	3.59	3.80

¹⁶ Docket No. TSA-2004-19147-0347 (Apr. 13, 2009).

¹⁷ Docket No. TSA-2004-19147 (Sept. 13, 2010).

¹⁸ *Id.*

¹⁹ Activities not requiring a Category 4 submission include: Instrument Proficiency Check (14 CFR 61.57), Heads Up Display (HUD) training, Enhanced Vision System (EVS) qualification, Line Oriented Flight Training (LOFT), Operator Specific Proficiency Checks (e.g., 121.441, 135.301), Landing Currency, Category III Qualification (61.67), Special Airport Qualifications (121.445), Examiner Training (183.23), Differences Training, and Training Center Instructors.



The above averages do not include certain spikes in the processing time. As an example, during early August 2015, the average processing time reached 7.8 days. Similarly, during the last week of 2015, the average processing time was 9.2 days.

Additionally, in 2010, the U.S. Department of State amended its policy for issuing student and exchange visitor visas,²⁰ specifically addressing flight training and pilot certification:

12. Posts are familiar with flight trainees who receive I-20s and are eligible for M-1 visas, although on occasion certain others qualify for F-1 visas (the latter being participants in exchange programs that ECA is phasing out this year). On the other hand, if an applicant is attending flight simulator training that is short-term in duration and being done solely for recertification or maintaining existing certification, then a B-1 visa is appropriate. You will need to ensure there is no classroom instruction, only simulator and self-study. This also assumes that the applicant's employer is covering the simulator training costs, incidental costs, and that the applicant does not receive a salary or perform "labor" in the United States. In the case of long-term training, an I-20 is required and an M or, on occasion, F visa is appropriate. Please address questions on this and any other visa classification questions to your regional officer in VO/L/A.

This notice helps to clarify what the types of visas are permissible for flight training, including the common use of B-1 visas for recurrent training in large aircraft.

In February 2011, the TSA clarified²¹ the photo requirements for flight training candidates. The impetus for this clarification was concerns raised by the flight training industry that, at times, the TSA had taken the view that the candidate's photo had to be submitted immediately prior to the start of flight training. In practice, candidates who arrive for training in simulators often start at night and or on weekends, which forced flight training providers to submit photos outside standard administrative business hours. TSA's policy interpretation required that: (1) a flight training candidate's identity be verified using a government issued photo ID (i.e., a passport), (2) a Category 4 submission be made, and (3) permission to commence training had been received. The flight training provider, however, was provided with the discretion to take the photo and place it in the candidate's folder within five business days of commencing training. In December 2012, the TSA reinforced the importance of the photo submission by issuing an advisory²² to flight training providers stating that candidate photographs should be uploaded into the AFSP system within 5 days of the start of the training and that "[b]efore flight training begins on a non-US citizen, [providers should] ensure the flight training candidate is enrolled in the TSA's AFSP system."

²⁰ U.S. Department of State, Student and Exchange Visitor Visa Update – April 2010, Reference Document: STATE 047061, 05/10.

²¹ Erik Jensen, Assistant General Manager, Transportation Sector Network Management (TSNM), Flight Providers and Alien Flight Student Candidates Subject to 49 CFR part 1552, RE: Policy Clarification – Photograph Submission requirements for Categories 1, 2, 3, and 4 (Feb. 28, 2011).

²² Advisory – Alien Flight Student Program, Transportation Security Administration (Dec. 20, 2012).



The FAA in 2013 removed the definition of flight simulator and flight training device from 14 CFR 61.1²³, which is referenced by the TSA in 49 CFR 1552.1(b), and instead provides the definition in 14 CFR 1.1.

The FAA in January 2016 issued a final rule for student pilot application requirements in response to direction from Congress, including Section 321 of the FAA Modernization and Reform Act of 2012 (which supersedes section 4022 of the Intelligence Reform and Terrorism Prevention Act). The regulation is based on a proposed regulation from 2010 that focused on requiring biometrics (e.g., a photo) on pilot certificates. The final rule requires all aspiring pilots to apply for a student pilot certificate through an FAA Flight Standards Districts Office, designated pilot examiner, airman certification representative associated with a flight school or a certified flight instructor. Accordingly, the rule removes the ability for Aviation Medical Examiners (AMEs) to issue combined medical certificates/ student pilot certificate.

3.0 The U.S.-Regulated Flight Training Industry and Training of Foreign Nationals

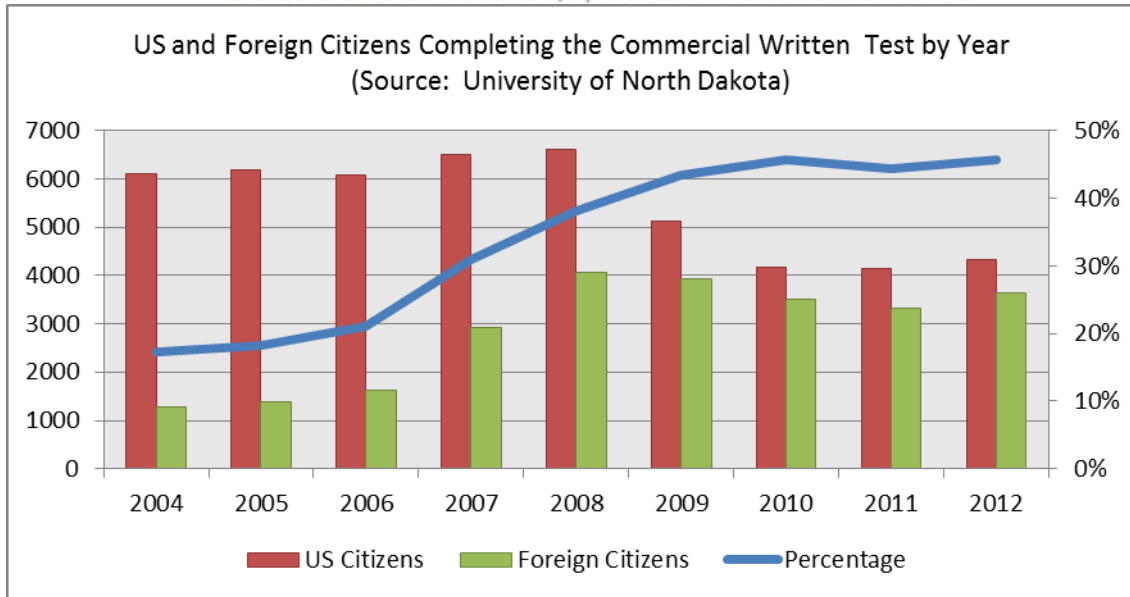
The United States has long supported a strong and competitive flight training industry. According to the TSA, in 2012 approximately 47,000 foreign nationals were subject to the AFSP (see Table 2).

Training Provider	Category 1	Category 2	Category 3	Category 4	Total
Air Carrier	296	305	14	2,122	2,737
Part 142	2,919	3,524	722	17,157	24,322
Part 141	25	9	14,322	4	14,370
Part 61	35	17	4,196	4	4,252
“Individual CFI”	26	14	961	13	1,014
“Other – not in list”	47	9	29	37	122
TOTAL					46,817

The University of North Dakota (UND) independently assessed the scope of the U.S. flight training industry in 2013.²⁴ The UND analysis only focused on commercial pilot certificates and did not include other training (e.g., private pilot certification; recurrent training). UND determined that in 2012, approximately 45% of the commercial certificate written tests were taken by foreign citizens.

²³ 78 FR 42372

²⁴ J. Higgins, K. Lovelace, et al., University of North Dakota, “An Investigation of the United States Airline Pilot Labor Supply” (2013).



4.0 Overview of Recommended Changes to 49 C.F.R. § 1552 and its Policy Framework

The ASAC has identified a number of opportunities for TSA to strengthen and streamline the AFSP, including changes TSA considered when it proposed to initiate rulemaking in 2011. These recommendations are discussed in detail below.

4.1 Expanding Risk Based Security Principles into Vetting for Alien Flight Training Candidates

The primary concept underlying the ASAC’s recommendations is Risk-Based Security (RBS) principles for vetting of alien flight training candidates. TSA introduced RBS in commercial aviation to make vetting of passengers and other persons travelling on commercial airlines more effective and efficient. Although RBS was not in place in 2004 when TSA issued 49 C.F.R. § 1552, tenants of RBS were part of both Congress’s direction to the TSA and how the TSA implemented section 1552 (i.e., four categories of candidates). The experience developed between TSA and industry creates an opportunity to make vetting more effective and efficient by further expanding the RBS framework.

In 2011, TSA proposed to introduce RBS through two changes to the AFSP (see, Appendix C). First, TSA proposed to remove the four categories of candidates and implement a single vetting process for all types of flight training. Second, TSA proposed that instead of making a foreign flight student / flight training provider submit STA documentation for each training event, STAs would be valid for five years. Candidates that had undergone an STA within five years would still be required to submit information for each training event, as defined by the applicability of the new regulation, but would be allowed to commence training upon the successful submission of the required information.



The AFSP is intended to help prevent a nefarious actor from learning to operate an aircraft to advance his or her malevolent plans (e.g., the 9/11 scenario). The existing regulation, however, not only focuses on vetting a person seeking to learn to fly, but also requires multiple vettings of a person *already* certificated as a pilot and undertaking training to maintain proficiency or obtain additional skills. In practice, this results in certificated pilots undergoing multiple STAs in a relatively short timeframe, which provides little or no additional security benefit while expending government and industry resources.

The following are two examples of scenarios currently encountered in the flight training industry:

Example 1: A typical ab initio flight training program, whether administered at a dedicated flight training provider or in a university or college setting, takes 12-24 months, during which time a candidate typically obtains his/her student pilot certificate, private pilot certificate, instrument rating, commercial certificate, and multi-engine rating. Some students also obtain the necessary qualifications to instruct (i.e., CFI-A) and ratings in specific aircraft. TSA's 2005 clarification²⁵ requires that a candidate receiving such training to obtain at least three (i.e., private, instrument, and multi-engine rating) individual STAs during the execution of his/her ab initio program.

Example 2: Often, pilots are qualified in multiple aircraft that require type ratings. Safety regulations require recurrent training in each aircraft on a 6- and or 12-month basis. Existing TSA regulations require that pilots with multiple type ratings obtain STAs for each training event, even when training is conducted within days of prior STAs.

The ASAC recommends TSA change the STA required for flight training under 49 CFR 1552 from being based on a training event to instead being based on time since the last STA was conducted for the candidate.. The implementation of a time-based STA will reduce the number of threat assessments conducted in situations in which an assessment would not provide an additional security value, such as the two examples above, but still ensure that the TSA is aware of pilots who are expanding their skills or obtaining required safety training. Providers will still be required to notify the TSA of certain training events, including new certificates or ratings (but not non-training events addressed in the TSA's September 2010²⁶ policy), and submit biographical information provided by the candidate—such as the candidate's (1) full name, (2) date of birth, (3) STA reference or clearance number, (4) date of the most recent STA, and (5) airmen certificate number. To assist candidates only seeking initial training in the United States (e.g., through an ab initio program that last less than one year) the TSA should consider providing a one-year STA option if there is a cost saving to the candidate.

Additionally, the ASAC recommends that the fee currently charged by the TSA (\$130) only apply to the STA, and not training event notification submissions for which STAs will not occur. Instead, the TSA's confirmation of information submitted as part of a training event notification would be similar in effort to

²⁵ *Id.*

²⁶ *Id.*



the name-based check currently conducted for airline passengers. Thus, the fee should be nominal fee (e.g., \$5 per event).

The ASAC also recommends that the TSA take this opportunity to clarify who may pay the fee for an STA or training event notification, the flight training provider or candidate. In practice, confusion over who may pay the fee has caused delays in the processing of candidate information. The ASAC notes that flexibility is important, because some flight training candidates do not have access to means of practically making the payment.

Additionally, the TSA should ensure that an STA is tied to the flight training candidate and not the training provider. The TSA has noted that this may warrant statutory changes in order to implement the STA being tied to the candidate. The agency recently took steps to enable candidates to move between a single flight training provider's facilities and also between affiliated flight training providers. To facilitate efficient and effective training, it is essential that STAs attach to candidates, not training providers, and that it be possible to administer a training event submission from any flight training provider from whom a candidate elects to obtain training.

The TSA should also review its processes for monitoring those persons that have obtained a pilot certificate as well as those persons who have been subject to an STA (e.g., the candidate travelling to certain countries or other identified risk factors). The ASAC, separately through the Employee Screening Working Group final report, has recommended that the TSA should accelerate the implementation of Rap Back by the end of 2015 (see 4.2.1 below).

Recommendations 1: The ASAC recommends that the TSA conduct rulemaking to amend 49 CFR 1552, based on RBS principles, and shift the Security Threat Assessments of Candidates from being based on a training event to being based on time since the last STA. Any training events, as identified by the TSA, should be notified to the agency with appropriate biographical information about the Candidate.

Note: A draft proposed re-written 49 CFR 1552 is included in section 5 of this document.

4.2 Other Technical Changes and Definitions to Address Vetting of Foreign Nationals

In addition to Recommendation 1, the ASAC also recommends that the TSA update the AFSP to enhance program consistency and close gaps that have been identified during the past 12 years. Some of these changes may be possible without rulemaking and instead through policy. The TSA should specifically address the following issues, listed in this section 4.2, to enhance the program:

4.2.1 Adding additional criminal disqualifying factors and look-back. The existing regulation does not contain criteria for disqualification for criminal offenses. The TSA should update the regulation to include criminal offenses identified in other TSA programs as grounds for disqualification. The TSA should obtain the legal authority to deny approval of a candidate if a disqualifying offense is identified from the Criminal



History Record Check (CHRC), through the FBI (or other potential means of identification). The ASAC notes that 14 C.F.R. § 61.15 lists certain offenses for which FAA can deny an application for a certification, rating, or authorization for a period of up to one year after the date of the final conviction.

The ASAC already has provided the TSA with separate recommendations about confirming that a person who has been subject to a CHRC does not engage in criminal activity after the date of the CHRC. In *Final Report of the Aviation Safety Advisory Committee's Working Group on Airport Access Control*, issued April 4, 2015, the ASAC recommended that the TSA accelerate the implementation of the FBI/Next Generation Identification (NGI) Rap Back Service to address a gap in employee screening. As part of this review of the AFSP, the TSA should consider also including real-time recurrency as part of the CHRC vetting process.

4.2.2 Clarifying wet lease / dry lease compliance responsibilities. The existing regulation does not address who is responsible for AFSP compliance in facility, simulator, and aircraft leasing situations.

The TSA should clarify that the flight training provider is responsible for regulatory compliance with the 49 CFR 1552 regulation. This includes the flight training provider ensuring that an STA was conducted in the previous five years, and the requisite information is submitted for each training event.

Recommended Process for Wet and Dry Lease full motion simulator responsibility, accountability and CFR Part 49 compliance.

4.2.2.1 Wet Lease – Recommended Process

Part 142 and Part 121 U.S. certified Flight Training Schools as well as U.S. Air Carriers often lease full flight simulators from other industry schools and Air Carriers, in order to conduct their own FAA endorsed flight training. As the lessee and the flight training provider, these organizations must comply with all applicable 49 CFR Part 1552 vetting and record keeping requirements. The initial or recurrent flight training event is considered 'wet' because though they are leasing another organizations' full motion simulators, the U.S. Flight School or U.S. Air Carrier is the entity actually conducting the flight training event.

As a U.S. based Training School or U.S. Air Carrier, the lessee, and the registered provider, they are responsible for determining the citizenship/nationality of the students, validating and coordinating applications, capturing and uploading digital photos and filing required documentation for five years. The U.S. provider is also subject to TSA audits and must conduct incident investigation and self-disclosure procedures, as required.

The lessee, and the lessor (the owner of the full motion simulator), will document via contract, letter/memorandum of understanding or working-together agreement each entity's business and regulatory compliance expectations regarding the delivery of FAA initial/recurrent flight training. Part 142 and Part 121 U.S. certified Flight Training Schools or U.S. Air Carriers that send their employee or customer pilots to alternate training locations, where they have leased a full flight simulator (lessee) from another industry partner (lessor), and are conducting the flight training instruction themselves, must provide proof of the TSA approvals to the simulator owners. TSA approval emails are the accepted proof of approvals.

4.2.2.2 Dry Lease – Recommended Process

Part 142 and Part 121 U.S. certified Flight Training Schools or U.S. Air Carriers that have leased a full flight simulator (lessor) to another industry partner (lessee), must confirm that the visiting customers' non-U.S. pilots have received the proper TSA approval prior to their scheduled flight training. The initial or recurrent



flight training event is considered 'dry' because the entity that leased the full motion simulator is not providing the instruction. The lessee is providing their own instructor pilot(s).

These organizations (lessee) must forward each pilots' TSA approval to the industry partner they are leasing the full motion simulator from (lessor), or each non-U.S. pilot must bring proof of their official TSA approval to the training indoctrination.

4.2.2.3 Non-U.S. Air Carrier; non-U.S. Pilot Candidate Support – Recommended Process

Non-U.S. pilot candidates that are employees of non-U.S. Air Carriers and are attending flight training in the Continental U.S or attending training at an FAA endorsed flight training facility outside of the U.S., may need assistance from the Flight Training Administrator or Agent of the U.S. Training Provider where their training is scheduled. In these cases, the Flight Training Provider that assists the non-U.S. flight training customer pilots is responsible for all Title 49 vetting, record keeping and auditing requirements.

Recommendation 2: The TSA should update the policy for record keeping requirement to reflect the wet and dry lease process as well as non-U.S. Air Carrier / non-U.S. pilot candidate support process outlined in section 4.2.2.1, 4.2.2.2., and 4.2.2.3 of this report.

4.2.3 Requirement for photo submission for training event. Currently, a flight training provider is required to take a photo of a candidate and submit that photo to TSA when the candidate arrives for training within five days of the commencement of training. The ASAC does not see any need to change this requirement if TSA adopts the proposed RBS framework for vetting of flight training candidates in section 4.1 of this report. The training provider would be required to submit a photo within five days of the candidate's arrival for the training event, whether it is immediately after the candidates STA or submission of training event data.

4.2.4 Updating the regulation based on policy for DOD endorsements. The regulation, as authorized in statute, exempts from vetting any person that has been endorsed by the DOD.²⁷

On July 19, 2012, the TSA implemented procedural changes for the DOD endorsement process to allow DOD attachés to submit endorsements through the DOD Portal of the AFSP website, which electronically generates an endorsement letter and sends it to the flight training provider. This change in policy is based on a GAO review of the program. Although DOD attachés may still issue their own endorsement letters, TSA encourages use of the AFSP website.

Recommendation 3: TSA should update the regulation to reflect the 2012 policy change to not only encourage, but require the use of the AFSP portal for Department of Defense (DOD) endorsed flight training candidates.

4.2.5 Clarifying what events require notification within the STA validity period. The statute, existing regulation, and associated guidance make clear that only certain activities will make a person subject to an STA. Congress specifically excluded demonstration flights for marketing purposes from STAs because these

²⁷ Vision 100 established this exemption ("non applicability").



flights do not involve flight training. Similarly, class room (non-simulator) instruction does not require an STA, but only before the student begins in-aircraft or in-motion simulator training activities. Additionally, STAs do not apply to individuals endorsed by DOD²⁸, but those individuals are required to provide documentation to the flight school, such as a copy of the individual's valid, unexpired passport.

In 2004 and again in 2010, TSA issued interpretations defining what constitutes flight training and recurrent training. We believe that these interpretations remain the cornerstone of the activities that would require an STA and should not be expanded at this time. The initial trigger for an STA would remain flight training that a candidate could use towards a new airman's certificate or rating.

TSA in 2004 issued an informational publication entitled "Security Guidelines for General Aviation Airports" that contains industry best practices for flight schools that are designed to enhance positive control of the aircraft prior to an individual's solo and subsequent vetting as part of the FAA certificate database. An updated version of the Security Guidelines for General Aviation Airports is under review by the TSA and intended to reflect changes in GA security that have occurred over the past decade.

Currently the FAA provides TSA with data from the Airmen Registry database on a daily basis. The data includes biographic information on all airman certificate holders. In 2009 TSA performed a biographic name-based security threat assessment for every individual airman certificate issued by the FAA. The name-based security threat assessment consisted of matching FAA biographic data, including variations, against the Terrorist Screening Database (TSDB) to determine whether credible information indicated the individual holding a certificate is involved, or suspected of being involved, in any activity that could pose a threat to aviation or national security. In 2009, TSA identified individuals that were a match to the TSDB and performed security threat investigations that resulted in 27 airman certificates being revoked. This vetting process continues today.

This continuous vetting process also eliminates the need to expand the STA to all flight training applicants (US Citizens included). Prior to any individual flying solo they are required to obtain a student pilot's license from the FAA. The student pilot certificate, based on changes implemented in April 2016, can only be issued by certain FAA designated persons and requires the student pilot's biographical information to be submitted using IACRA. (See also section 4.4 of this report.)

Recommendation 4: The ASAC recommends that the TSA publish a complete list of those training events that would require notification. The agency should align this policy with September 2010 policy interpretation of "Recurrent Training" and Changes to the Security Threat Assessment Process for Recurrent Training"²⁹

²⁸ 69 Fed. Reg. at 56332.

²⁹ See supra 17.



4.2.6 Assessing difficulties meeting fingerprinting requirements. Currently, NATA Compliance Services (NATACS) provides biographic enrollment and fingerprint collection in support of the AFSP, as designated by the TSA. NATACS operates under a Memorandum of Agreement with TSA and works with flight training providers to capture fingerprints for compliance with the AFSP. The NATACS network includes 29 fixed site international fingerprint technician locations in 17 countries. Nonetheless, flight training candidates and providers report that candidates are encountering difficulties locating fingerprinting agents in country or nearby. Few U.S. embassies seem to offer fingerprinting services, which results in candidates having to come to the United States a week or more in advance of training in order to be fingerprinted. The candidates then risk not being approved in time for their scheduled training. The ASAC determined that the lack of fingerprint locations likely cannot be addressed through revisions to 49 C.F.R. 1552. TSA should consider methods to improve the fingerprint collection process and options.

4.2.7 Establishing mechanisms to qualify flight schools and visa implications. The vast majority of pilot training conducted in the United States is undertaken at flight schools or other organizations certificated by the FAA. According to the TSA, in 2012 11.5% of STAs were conducted for candidates training at “Part 61” providers or “Individual CFIs”. This distinction has caused some confusion by the public, raising concerns about whether Part 61 training poses a security risk because they are not FAA certified. Importantly, both Parts 61 and 141 define minimum requirements for pilot training and certification. Part 61 instruction is subject to FAA regulation and oversight, but is not certified as a flight school. FAA-certified flight instructors (CFIs) may train students under Part 61; CFIs do not need to be affiliated with FAA-certified flight schools. Part 141 relates to the structure and certification of flight schools (personnel, aircraft, facilities, curriculum, etc.). FAA is required to oversee Part 141 operations, including on-site records reviews. Annual inspections of individual flight instructors under Part 61 are not required, but FAA may conduct additional oversight. Currently, instructors and administrative staff with Part 141 providers register with TSA as providers (agents) of that school. Part 61 providers that do not have FAA certification numbers register with TSA as individual training providers with one or more CFIs as point of contact. Currently, the TSA does not conduct a name-based terrorism check for persons registered as flight training providers, but through rulemaking the agency could propose to add this requirement.

In March 2013, a bill was introduced into Congress that, in addition to requiring a check against immigration records, would require all “flight schools to be certified by the Administrator of the Federal Aviation Administration pursuant to part 141 or 142 of title 14, Code of Federal Regulation”³⁰. The bill did not pass, but indicates that TSA needs a clear mechanism under 49 C.F.R. § 1552 to recognize training conducted at non-certificated flight schools (e.g., airlines, individual instructors, and Part 61).

Parts 61 and 141 provide important options in flight training. To maintain these flexibilities, the ASAC encourages that TSA review and ensure that there is a single category for training providers to register with the agency to indicate that both certified and non-certified providers come under TSA’s security risk

³⁰ H.R. 999, Section 2, Requiring Flight Schools to be Certified by FAA (113th Congress).



mitigation framework. This is consistent with TSA defining “flight school” in section 1552 to include both Parts 61 and 141 entities.

Additionally, TSA should work with FAA to implement the CFI renewal requirement to determine whether a Part 61 instructor is currently conducting flight training and, if so, who s/he is training. CFIs with valid certificates have options for how to renew. Specifically, under current regulations, CFIs may:

- Complete an approved Flight Instructor Refresher Course;
- Take a practical test with the FAA or designated examiner; or
- Present a record of training within the past 24 months showing that the instructor (A) endorsed at least five students to take their practical tests, with at least 80% passing on their first attempts, or (B) the instructor served as a company check pilot, chief flight instructor, company check airman, or flight instructor in a Part 121 or 135 operation, or in a position involving regular evaluation of pilots in which the FAA inspector is acquainted with the duties and responsibilities of the position, and has satisfactory knowledge of its current pilot training, certification and standards.

This would help to identify instructors that are conducting training but not sending candidates for evaluation.

The ASAC also notes that there is confusion about what Visa status flight students need to receive training. The ASAC notes that TSA has an opportunity to work with other relevant agencies to provide clear guidance to flight schools this issue, because there are inconsistencies in the types of visas issue to flight students. There are typically three types of visas issued to persons seeking flight training in the United States.

- F-1: Typically issued to university students that are also seeking flight training as part of their degree program. The institution must have authority to issue I-20s. Part 61 schools do not have a mechanism to obtain this authority.
- M-1: Typically issued to students at vocational and technical schools. The institution must have authority to issue I-20s. Flight students are typically required to obtain an M-1 visa if their flight training involves classroom instruction.³¹ Part 61 schools do not have a mechanism to obtain this authority.
- B-1: Typically issued to persons participating in business activities or a commercial or professional nature. Flight students often conduct training that does not involve classroom instruction. These visas are generally only appropriate for recurrent training when a company is not funding the training or paying a salary.

Permanent residents or persons legally residing in the United States on extended work or other visas (e.g., A, H) are eligible to pursue flight training even though their primary purpose to be in the United States is not to seek flight training.

³¹ The criteria where a student is required to obtain an M-1 (and the flight training provider is required to obtain authority to issue I-20s) just because a simulator training session involves ground school, typically ground school do not exceed 18 hours, seems to be an arbitrary an unnecessary step.



Occasionally, TSA is presented other types of visas, such as B-2 (typically for tourism, but not flight training), C/D (crew member visas), Visa Waiver / ESTA (similar to B-visas), but flight training providers should be aware that these visas tend to not be appropriate for flight training candidates.

The ASAC, however, recognizes that the TSA does not have authority over visa policy. The ASAC notes that there is an opportunity to further align TSA, ICE and SEVIS policy for how flight students are subject to scrutiny and are monitored between the 1552-regulation and other agencies within DHS.

Recommendation 5: The ASAC encourages TSA to work closely with other DHS agencies, including Immigration and Customs Enforcements, and the Department of State to provide improved clarity regarding visas applicable to flight training candidates including candidates in the United States for non-flight training purposes (e.g., H, F or permanent residents).

4.3 Vetting of U.S. Citizens

49 C.F.R. § 1552 focuses on vetting foreign nationals and certain other designated persons. The regulations do not provide specific requirements for vetting U.S. citizens and nationals, apart from establishing U.S. citizenship or nationality by providing a flight training provider with a copy of (1) the individual's valid, unexpired U.S. passport; (2) the individual's original or government-issued certified U.S., American Samoa, or Swains Island birth certificate, together with a government-issued photo ID; (3) the individual's original U.S. naturalization certificate; (4) the individual's original certification of birth abroad; (5) the individual's original certificate or U.S. citizenship; or (6) in the case of flight training provided to a Federal employee (including military personnel), the relevant agency's written certification as to the employee's U.S. citizenship or nationality, together with the employee's government-issued credential.

Congress established the authority for the FAA to screen individuals on the Airmen Registry against the Federal "No Fly" and "Selectee" watch lists, and notify TSA when it discovers the selected applicants or holders of Airmen Certificates appear on those watch lists. This activity is conducted by way of the Airmen Certificate Vetting Program.³² The cooperation between FAA and TSA is established through formal agreements.

Recently, Congress raised concerns about U.S. citizens and nationals obtaining flight training. In a 2012 hearing, the TSA was specifically required to address whether U.S. citizens are subject to vetting. The House Committee on Homeland Security raised several questions³³ tied to vetting of U.S. citizen flight training candidates against the "No Fly List" including:

- Why is TSA not currently checking all prospective flight students against the No Fly list?

³² https://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_tsa_airmen.pdf

³³ Letter to Administrator John Pistole, U.S. House of Representatives, Committee on Homeland Security, from Representatives Mike Rogers, Tim Walberg, Chip Cravaack, Joe Walsh, and Robert L. Turner (July 19, 2012).



- Does current law allow TSA to establish a system to check U.S. citizens applying to flight schools against the No Fly list?

In parallel, Ranking Member Bennie Thompson (D-MS), introduced the Flight School Security Act of 2012, HR 6159, which would have required all individuals seeking flight training to be “checked against the terrorist watchlist to ascertain if the individual is a threat to aviation[,]” including U.S. citizens or nationals. This bill did not pass, but introduction of a more targeted bill focusing on any person obtaining his/her primary flight training in an aircraft with an MTOW above 12,500 pounds has been under consideration.

Currently, under the ASTA, the vetting of U.S. citizens and nationals who hold FAA certificates is administered on a continuous basis through cooperation among the TSA, FAA, and FBI.³⁴ This vetting is conducted through a name-based security threat assessment of all persons who hold an FAA certificate or rating, using information contained in the FAA Airmen Registry database. As a result, any person who holds a medical certificate, student pilot certificate, or other certificate (e.g., private pilot or higher) is subject to continuous vetting.

Prior to the FAA’s new rule regarding “Student Pilot Application Requirements” (issued January 12, 2016; effective April 1, 2016) U.S. citizens or nationals in the pre-solo phase of flight training (typically the first 10 to 30 hours of training in the airplane), were not subject to the above-described coordinated vetting, because flight training candidates are not required to obtain a medical certificate and student pilot certificate prior to solo. FAA’s new rule requires student pilots to carry a plastic student pilot certificate from the Civil Aviation Registry before exercising the privileges of that certificate, that is, flying solo. FAA states that this new rule is intended to facilitate security vetting by TSA of student pilot applicants prior to certificate issuance.

The ASAC notes that pre-solo activities do not pose a significant security risk. During all pre-solo flight activity, the flight training candidate is accompanied by an FAA-certificated flight instructor. This certified flight instructor is vetted and subject to security awareness training, which sufficiently mitigates the risk of nefarious use of aircraft in pre-solo situations.

Per interest from Congress, the ASAC also considered requiring all individuals seeking flight training in an aircraft with a maximum certified takeoff weight of above 12,500 pounds and not holding a valid FAA airman’s certificate to be checked against the terrorist watchlist. The ASAC noted that flight schools are likely to raise concerns about persons attempting to pursue their initial flight training in large aircraft and would likely notify the appropriate government agencies. Accordingly, the ASAC determined that it was unnecessary to recommend additional security requirements to identify these individuals.

5.0 Draft Amended 49 C.F.R. § 1552

³⁴ *Id.*

ASAC

AVIATION SECURITY ADVISORY COMMITTEE

Current	Draft Proposal (without numbering) <ul style="list-style-type: none"> - Deleted text shown using strike through - New text shown using gray highlight
Subpart A—Flight Training for Aliens and Other Designated Individuals	Subpart A—Flight Training for Aliens and Other Designated Individuals [No Change]
1552.1 Scope and Definitions	1552.1 Scope and Definitions [No Change]
<p>(a) <i>Scope.</i> This subpart applies to flight schools that provide instruction under 49 U.S.C. Subtitle VII, Part A, in the operation of aircraft or aircraft simulators, and individuals who apply to obtain such instruction or who receive such instruction.</p>	<p>(a) <i>Scope.</i> This subpart applies to flight schools that provide instruction under 49 U.S.C. Subtitle VII, Part A, in the operation of aircraft or aircraft simulators, and individuals who apply to obtain such instruction or who receive such instruction.</p> <p>[No Change]</p>
<p>(b) <i>Definitions.</i> As used in this part:</p> <p><i>Aircraft simulator</i> means a flight simulator or flight training device, as those terms are defined at 14 CFR 61.1.</p> <p><i>Alien</i> means any person not a citizen or national of the United States.</p> <p><i>Candidate</i> means an alien or other individual designated by TSA who applies for flight training or recurrent training. It does not include an individual endorsed by the Department of Defense for flight training.</p> <p><i>Day</i> means a day from Monday through Friday, including State and local holidays but not Federal holidays, for any time period less than 11 days specified in this part. For any time period greater than 11 days, day means calendar day.</p> <p><i>Demonstration flight for marketing purposes</i> means a flight for the purpose of demonstrating an aircraft's or aircraft simulator's capabilities or characteristics to a potential purchaser, or to an agent of a potential purchaser, of the aircraft or simulator, including an acceptance flight after an aircraft manufacturer delivers an aircraft to a purchaser.</p> <p><i>Flight school</i> means any pilot school, flight training center, air carrier flight training facility, or flight instructor certificated under 14 CFR part 61, 121, 135, 141, or 142; or any other person or entity that provides instruction under 49 U.S.C. Subtitle VII, Part A, in the operation of any aircraft or aircraft simulator.</p> <p><i>Flight training</i> means instruction received from a flight school in an aircraft or aircraft simulator. Flight training does not include recurrent training, ground training, a demonstration flight for marketing purposes, or any military training provided by the Department of Defense, the U.S. Coast Guard, or an entity under contract with the Department of Defense or U.S. Coast Guard.</p> <p><i>Ground training</i> means classroom or computer-based instruction in the operation of aircraft,</p>	<p>(b) <i>Definitions.</i> As used in this part:</p> <p><i>Aircraft simulator</i> means a flight simulator or flight training device, as those terms are defined at 14 CFR 61.1.</p> <p><i>Alien</i> means any person not a citizen or national of the United States.</p> <p><i>Candidate</i> means an alien or other individual designated by TSA who applies for flight training or recurrent training. It does not include an individual endorsed by the Department of Defense for flight training.</p> <p><i>Day</i> means a day from Monday through Friday, including State and local holidays but not Federal holidays, for any time period less than 11 days specified in this part. For any time period greater than 11 days, day means calendar day.</p> <p><i>Demonstration flight for marketing purposes</i> means a flight for the purpose of demonstrating an aircraft's or aircraft simulator's capabilities or characteristics to a potential purchaser, or to an agent of a potential purchaser, of the aircraft or simulator, including an acceptance flight after an aircraft manufacturer delivers an aircraft to a purchaser.</p> <p><i>Flight school</i> means any pilot school, flight training center, air carrier flight training facility, or flight instructor certificated under 14 CFR part 61, 121, 135, 141, or 142; or any other person or entity that provides instruction under 49 U.S.C. Subtitle VII, Part A, in the operation of any aircraft or aircraft simulator. Flight school includes all individual locations associated with a single training provider.</p> <p><i>Flight training</i> means instruction received from a flight school in an aircraft or aircraft simulator. Flight training does not include recurrent training, ground training, a demonstration flight for marketing purposes, or any military training provided by the Department of Defense, the U.S. Coast Guard, or an entity under contract with the Department of Defense or U.S. Coast Guard.</p> <p><i>Ground training</i> means classroom or computer-</p>

<p>aircraft systems, or cockpit procedures. Ground training does not include instruction in an aircraft simulator on motion.</p> <p><i>National of the United States</i> means a person who, though not a citizen of the United States, owes permanent allegiance to the United States, and includes a citizen of American Samoa or Swains Island.</p> <p><i>Recurrent training</i> means periodic training required under 14 CFR part 61, 121,125, 135, or Subpart K of part 91. Recurrent training does not include training that would enable a candidate who has a certificate or type rating for a particular aircraft to receive a certificate or type rating for another aircraft.</p>	<p>based instruction in the operation of aircraft, aircraft systems, or cockpit procedures. Ground training does not include instruction in an aircraft simulator on motion.</p> <p><i>National of the United States</i> means a person who, though not a citizen of the United States, owes permanent allegiance to the United States, and includes a citizen of American Samoa or Swains Island.</p> <p><i>Recurrent training</i> means periodic training required under 14 CFR part 61, 121,125, 135, or Subpart K of part 91. Recurrent training does not include training that would enable a candidate who has a certificate or type rating for a particular aircraft to receive a certificate or type rating for another aircraft.</p>
<p>1552.3 Flight training This section describes the procedures a flight school must follow before providing flight training.</p>	<p>1552.3 Flight training This section describes the procedures a flight school must follow before providing flight training. [No Change]</p>
<p>(a) Category 1—Regular processing for flight training on aircraft more than 12,500 pounds. A flight school may not provide flight training in the operation of any aircraft having a maximum certificated takeoff weight of more than 12,500 pounds to a candidate, except for a candidate who receives expedited processing under paragraph (b) of this section, unless—</p> <p>(1) The flight school has first notified TSA that the candidate has requested such flight training.</p> <p>(2) The candidate has submitted to TSA, in a form and manner acceptable to TSA, the following:</p> <ul style="list-style-type: none"> (i) The candidate’s full name, including any aliases used by the candidate or variations in the spelling of the candidate’s name; (ii) A unique candidate identification number created by TSA; (iii) A copy of the candidate’s current, unexpired passport and visa; (iv) The candidate’s passport and visa information, including all current and previous passports and visas held by the candidate and all the information necessary to obtain a passport and visa; (v) The candidate’s country of birth, current country or countries of citizenship, and each previous country of citizenship, if any; (vi) The candidate’s actual date of birth or, if the candidate does not know his or her date of birth, the approximate date of birth used consistently by the candidate for his or her passport or visa; (vii) The candidate’s requested dates of training and the location of the training; (viii) The type of training for which the candidate is applying, including the 	<p>(a) <i>Security Threat Assessment</i>—A flight school may not provide flight training in the operation of any aircraft unless the flight training candidate has undergone a successful Security Threat Assessment during the proceeding [XXX] years and.</p> <ul style="list-style-type: none"> (1) The flight school has first notified TSA that the candidate has requested such flight training. (2) The flight school or candidate has submitted to TSA, in a form and manner acceptable to TSA, the following: <ul style="list-style-type: none"> (i) The candidate’s full name, including any aliases used by the candidate or variations in the spelling of the candidate’s name; (iii) A copy of the candidate’s current, unexpired passport; and (iv) A copy of the candidate’s current, unexpired visa, or other documentation of legal status deemed acceptable by TSA; (iv) The candidate’s passport or visa information, including all current and previous passports and visas held by the candidate and all the information necessary to obtain a passport and visa; (v) The candidate’s country of birth, current country or countries of citizenship, and each previous country of citizenship, if any; (vi) The candidate’s actual date of birth or, if the candidate does not know his or her date of birth, the approximate date of birth used consistently by the candidate for his or her passport or visa; (vii) The candidate’s requested dates of training and the location of the training; (ix) The candidate’s current U.S. pilot certificate, certificate number, and type rating, or equivalent foreign pilot certificates or licenses, if any; (x) Except as provided in paragraph (k) of this section, the candidate’s fingerprints, in accordance with paragraph (f) of this section;

ASAC

AVIATION SECURITY ADVISORY COMMITTEE

<p>aircraft type rating the candidate would be eligible to obtain upon completion of the training;</p> <p>(ix) The candidate's current U.S. pilot certificate, certificate number, and type rating, if any;</p> <p>(x) Except as provided in paragraph (k) of this section, the candidate's fingerprints, in accordance with paragraph (f) of this section;</p> <p>(xi) The candidate's current address and phone number and each address for the 5 years prior to the date of the candidate's application;</p> <p>(xii) The candidate's gender; and</p> <p>(xiii) Any fee required under this part.</p> <p>(3) The flight school has submitted to TSA, in a form and manner acceptable to TSA, a photograph of the candidate taken when the candidate arrives at the flight school for flight training.</p> <p>(4) TSA has informed the flight school that the candidate does not pose a threat to aviation or national security, or more than 30 days have elapsed since TSA received all of the information specified in paragraph (a)(2) of this section.</p> <p>(5) The flight school begins the candidate's flight training within 180 days of either event specified in paragraph (a)(4) of this section.</p>	<p>(xi) The candidate's current address and phone number and any other addresses and phone numbers used during the 5 years prior to the date of the candidate's application, ;</p> <p>(xii) The candidate's gender; and</p> <p>(xiii) Any fee required under this part.</p> <p>(3) The flight school has submitted to TSA, in a form and manner acceptable to TSA, notification of each training event that will result in obtaining or renewing a certificate or rating within 5 days of the commencement of each training event.</p> <p>(4) The flight school has submitted to TSA, in a form and manner acceptable to TSA, a photograph of the candidate taken when the candidate arrives at the flight school for flight training.</p> <p>(4) TSA has informed the flight school that the candidate does not pose a threat to aviation or national security, or more than 30 days have elapsed since TSA received all of the information specified in paragraph (a)(2) of this section.</p> <p>(b) Successful Security Threat Assessments shall be valid for a period of [XXX] years.</p>
<p>(b) <i>Category 2—Expedited processing for flight training on aircraft more than 12,500 pounds.</i></p> <p>(1) A flight school may not provide flight training in the operation of any aircraft having a maximum certificated takeoff weight of more than 12,500 pounds to a candidate who meets any of the criteria of paragraph (b)(2) of this section unless—</p> <p>(i) The flight school has first notified TSA that the candidate has requested such flight training.</p> <p>(ii) The candidate has submitted to TSA, in a form and manner acceptable to TSA:</p> <p>(A) The information and fee required under paragraph (a)(2) of this section; and</p> <p>(B) The reason the candidate is eligible for expedited processing under paragraph (b)(2) of this section and information that establishes that the candidate is eligible for expedited processing.</p> <p>(iii) The flight school has submitted to TSA, in a form and manner acceptable to TSA, a photograph of the candidate taken when the candidate arrives at the flight school for flight training.</p> <p>(iv) TSA has informed the flight school that the candidate does not pose a threat to aviation or national security or more than 5 days have elapsed since TSA received all</p>	<p>[Strike all.]</p>

ASAC

AVIATION SECURITY ADVISORY COMMITTEE

<p>of the information specified in paragraph (a)(2) of this section.</p> <p>(v) The flight school begins the candidate's flight training within 180 days of either event specified in paragraph (b)(1)(iv) of this section.</p> <p>(2) A candidate is eligible for expedited processing if he or she—</p> <ul style="list-style-type: none"> (i) Holds an airman's certificate from a foreign country that is recognized by the Federal Aviation Administration or a military agency of the United States, and that permits the candidate to operate a multi-engine aircraft that has a certificated takeoff weight of more than 12,500 pounds; (ii) Is employed by a foreign air carrier that operates under 14 CFR part 129 and has a security program approved under 49 CFR part 1546; (iii) Has unescorted access authority to a secured area of an airport under 49 U.S.C. 44936(a)(1)(A)(ii), 49 CFR 1542.209, or 49 CFR 1544.229; (iv) Is a flightcrew member who has successfully completed a criminal history records check in accordance with 49 CFR 1544.230; or (v) Is part of a class of individuals that TSA has determined poses a minimal threat to aviation or national security because of the flight training already possessed by that class of individuals. 	
<p>(c) <i>Category 3—Flight training on aircraft 12,500 pounds or less.</i> A flight school may not provide flight training in the operation of any aircraft having a maximum certificated takeoff weight of 12,500 pounds or less to a candidate unless—</p> <ul style="list-style-type: none"> (1) The flight school has first notified TSA that the candidate has requested such flight training. (2) The candidate has submitted to TSA, in a form and manner acceptable to TSA: <ul style="list-style-type: none"> (i) The information required under paragraph (a)(2) of this section; and (ii) Any other information required by TSA. (3) The flight school has submitted to TSA, in a form and manner acceptable to TSA, a photograph of the candidate taken when the candidate arrives at the flight school for flight training. (4) The flight school begins the candidate's flight training within 180 days of the date the candidate submitted the information required under paragraph (a)(2) of this section to TSA. 	<p>[Strike all.]</p>
<p>(d) <i>Category 4—Recurrent training for all aircraft.</i> Prior to beginning recurrent training for a candidate,</p>	<p>(c) <i>Training notification.</i> Prior to beginning flight training or recurrent training for a candidate with a valid Security Threat</p>

ASAC

AVIATION SECURITY ADVISORY COMMITTEE

<p>a flight school must—</p> <p>(1) Notify TSA that the candidate has requested such recurrent training; and (2) Submit to TSA, in a form and manner acceptable to TSA:</p> <ul style="list-style-type: none"> (i) The candidate’s full name, including any aliases used by the candidate or variations in the spelling of the candidate’s name; (ii) Any unique student identification number issued to the candidate by the Department of Justice or TSA; (iii) A copy of the candidate’s current, unexpired passport and visa; (iv) The candidate’s current U.S. pilot certificate, certificate number, and type rating(s); (v) The type of training for which the candidate is applying; (vi) The date of the candidate’s prior recurrent training, if any, and a copy of the training form documenting that recurrent training; (vii) The candidate’s requested dates of training; and (viii) A photograph of the candidate taken when the candidate arrives at the flight school for flight training. 	<p>Assessment, a flight school must—</p> <p>(1) Notify TSA that the candidate has requested such recurrent training; and (2) Submit to TSA, in a form and manner acceptable to TSA:</p> <ul style="list-style-type: none"> (i) The candidate’s full name, including any aliases used by the candidate or variations in the spelling of the candidate’s name, and date of birth; (ii) The candidate’s Security Threat Assessment reference number; (iii) The date of the candidate’s most recent Security Threat Assessment; (iv) The candidate’s current U.S. pilot certificate, certificate number, and type rating(s), or equivalent foreign pilot certificates or licenses; and (v) The type of training for which the candidate is applying. (vi) The candidate’s requested dates of training and the location of the training.
<p>(e) <i>Interruption of flight training.</i> A flight school must immediately terminate or cancel a candidate’s flight training if TSA notifies the flight school at any time that the candidate poses a threat to aviation or national security.</p>	<p>(d) <i>Interruption of flight training.</i> A flight school must immediately terminate or cancel a candidate’s flight training if TSA notifies the flight school at any time that the candidate poses a threat to aviation or national security.</p>
<p>(f) <i>Fingerprints.</i> (1) Fingerprints submitted in accordance with this subpart must be collected—</p> <ul style="list-style-type: none"> (i) By United States Government personnel at a United States embassy or consulate; or (ii) By another entity approved by TSA. <p>(2) A candidate must confirm his or her identity to the individual or agency collecting his or her fingerprints under paragraph (f)(1) of this section by providing the individual or agency his or her:</p> <ul style="list-style-type: none"> (i) Passport; (ii) Resident alien card; or (iii) U.S. driver’s license. <p>(3) A candidate must pay any fee imposed by the agency taking his or her fingerprints.</p>	<p>(e) <i>Fingerprints.</i></p> <p>(1) Fingerprints submitted in accordance with this subpart must be collected—</p> <ul style="list-style-type: none"> (i) By United States Government personnel at a United States embassy or consulate; (ii) By an entity approved by TSA; or <p>(2) A candidate must confirm his or her identity to the individual or agency collecting his or her fingerprints under paragraph (f)(1) of this section by providing the individual or agency his or her:</p> <ul style="list-style-type: none"> (i) Passport; (ii) Resident alien card; or (iii) U.S. driver’s license. <p>(3) A candidate must pay any fee imposed by the agency taking his or her fingerprints.</p>
<p>(g) <i>General requirements.</i></p> <p>(1) <i>False statements.</i> If a candidate makes a knowing and willful false statement, or omits a material fact, when submitting the information required under this part, the candidate may be—</p> <ul style="list-style-type: none"> (i) Subject to fine or imprisonment or both under 18 U.S.C. 1001; 	<p>(f) <i>General requirements.</i></p> <p>(1) <i>False statements.</i> If a candidate makes a knowing and willful false statement, or omits a material fact, when providing the information required under this part, the candidate may be—</p> <ul style="list-style-type: none"> (i) Subject to fine or imprisonment or both under 18 U.S.C. 1001;

ASAC

AVIATION SECURITY ADVISORY COMMITTEE

<p>(ii) Denied approval for flight training under this section; and</p> <p>(iii) Subject to other enforcement action, as appropriate.</p> <p>(2) <i>Preliminary approval.</i> For purposes of facilitating a candidate’s visa process with the U.S. Department of State, TSA may inform a flight school and a candidate that the candidate has received preliminary approval for flight training based on information submitted by the flight school or the candidate under this section. A flight school may then issue an I-20 form to the candidate to present with the candidate’s visa application. Preliminary approval does not initiate the waiting period under paragraph (a)(3) or (b)(1)(iii) of this section or the period in which a flight school must initiate a candidate’s training after receiving TSA approval under paragraph (a)(4) or (b)(1)(iv) of this section.</p>	<p>(ii) Denied approval for flight training under this section; and</p> <p>(iii) Subject to other enforcement action, as appropriate.</p>
<p>(h) <i>U.S. citizens and nationals and Department of Defense endorsees.</i> A flight school must determine whether an individual is a citizen or national of the United States, or a Department of Defense endorsee, prior to providing flight training to the individual.</p> <p>(1) <i>U.S. citizens and nationals.</i> To establish U.S. citizenship or nationality an individual must present to the flight school his or her:</p> <ul style="list-style-type: none"> (i) Valid, unexpired United States passport; (ii) Original or government-issued certified birth certificate of the United States, American Samoa, or Swains Island, together with a government issued picture identification of the individual; (iii) Original United States naturalization certificate with raised seal, or a Certificate of Naturalization issued by the U.S. Citizenship and Immigration Services (USCIS) or the U.S. Immigration and Naturalization Service (INS) (Form N-550 or Form N-570), together with a government-issued picture identification of the individual; (iv) Original certification of birth abroad with raised seal, U.S. Department of State Form FS-545, or U.S. Department of State Form DS-1350, together with a government-issued picture identification of the individual; (v) Original certificate of United States citizenship with raised seal, a Certificate of United States Citizenship issued by the USCIS or INS (Form N-560 or Form N-561), or a Certificate of Repatriation issued by the USCIS or INS (Form N-581), together with a government-issued picture identification of the individual; or 	<p>[MODIFY: Discretion for DOD?]</p> <p>(g) <i>U.S. citizens and nationals and Department of Defense endorsees.</i> A flight school must determine whether an individual is a citizen or national of the United States, or a Department of Defense endorsee, prior to providing flight training to the individual.</p> <p>(1) <i>U.S. citizens and nationals.</i> To establish U.S. citizenship or nationality an individual must present to the flight school his or her:</p> <ul style="list-style-type: none"> (i) Valid, unexpired United States passport <u>or passport card</u>; (ii) Original or government-issued certified birth certificate of the United States, American Samoa, or Swains Island, together with a government issued picture identification of the individual; (iii) Original United States naturalization certificate with raised seal, or a Certificate of Naturalization issued by the U.S. Citizenship and Immigration Services (USCIS) or the U.S. Immigration and Naturalization Service (INS) (Form N-550 or Form N-570), together with a government-issued picture identification of the individual; (iv) Original certification of birth abroad with raised seal, U.S. Department of State Form FS-545, or U.S. Department of State Form DS-1350, together with a government-issued picture identification of the individual; (v) Original certificate of United States citizenship with raised seal, a Certificate of United States Citizenship issued by the USCIS or INS (Form N-560 or Form N-561), or a Certificate of Repatriation issued by the USCIS or INS (Form N-581),

ASAC

AVIATION SECURITY ADVISORY COMMITTEE

<p>(vi) In the case of flight training provided to a Federal employee (including military personnel) pursuant to a contract between a Federal agency and a flight school, the agency's written certification as to its employee's United States citizenship or nationality, together with the employee's government-issued credentials or other Federally-issued picture identification.</p> <p>(2) <i>Department of Defense endorsees.</i> To establish that an individual has been endorsed by the U.S. Department of Defense for flight training, the individual must present to the flight school a written statement acceptable to TSA from the U.S. Department of Defense attache' in the individual's country of residence together with a government-issued picture identification of the individual.</p>	<p>together with a government-issued picture identification of the individual; or</p> <p>(vi) In the case of flight training provided to a Federal employee (including military personnel) pursuant to a contract between a Federal agency and a flight school, the agency's written certification as to its employee's United States citizenship or nationality, together with the employee's government-issued credentials or other Federally-issued picture identification.</p> <p>(2) <i>Department of Defense endorsees.</i> To establish that an individual has been endorsed by the U.S. Department of Defense for flight training, the individual must present to the flight school a written statement acceptable to TSA from the U.S. Department of Defense attache' in the individual's country of residence together with a government-issued picture identification of the individual.</p>
<p>(i) <i>Recordkeeping requirements.</i> A flight school must—</p> <p>(1) Maintain the following information for a minimum of 5 years:</p> <p>(i) For each candidate: (A) A copy of the photograph required under paragraph (a)(3), (b)(1)(iii), (c)(3), or (d)(2)(viii) of this section; and (B) A copy of the approval sent by TSA confirming the candidate's eligibility for flight training.</p> <p>(ii) For a Category 1, Category 2, or Category 3 candidate, a copy of the information required under paragraph (a)(2) of this section, except the information in paragraph (a)(2)(x).</p> <p>(iii) For a Category 4 candidate, a copy of the information required under paragraph (d)(2) of this section.</p> <p>(iv) For an individual who is a United States citizen or national, a copy of the information required under paragraph (h)(1) of this section.</p> <p>(v) For an individual who has been endorsed by the U.S. Department of Defense for flight training, a copy of the information required under paragraph (h)(2) of this section.</p> <p>(vi) A record of all fees paid to TSA in accordance with this part.</p> <p>(2) Permit TSA and the Federal Aviation Administration to inspect the records required by paragraph (i)(1) of this section during reasonable business hours.</p>	<p>(h) <i>Recordkeeping requirements.</i></p> <p>(1) A flight school must maintain the following information for a minimum of 5 years:</p> <p>(i) For each candidate: (A) A copy of the photograph required under paragraph (a)(3), (b)(1)(iii), (c)(3), or (d)(2)(viii) of this section; and (B) A copy of the approval sent by TSA confirming the candidate's eligibility for flight training.</p> <p>(ii) A copy of the information required under paragraph (a)(2) of this section, except the information in paragraph (a)(2)(x).</p> <p>(iii) For an individual who is a United States citizen or national, a copy of the information required under paragraph (g)(1) of this section.</p> <p>(iv) For an individual who has been endorsed by the U.S. Department of Defense for flight training, a copy of the information required under paragraph (h)(2) of this section.</p> <p>(v) A record of all fees paid to TSA in accordance with this part.</p> <p>(2) In situations in which the flight school leases equipment and or facilities from another entity, the lessor must provide the lessee with written confirmation that the requisite information was submitted to TSA. Lessees must maintain confirmation documentation for a minimum of five years.</p> <p>(3) TSA and the Federal Aviation Administration must be permitted to inspect the records required by paragraphs (f)(1) and (f)(2) of this section during reasonable business hours.</p>
<p>(j) <i>Candidates subject to the Department of Justice rule.</i> A candidate who submits a completed Flight</p>	<p>[Strike all.]</p>

ASAC

AVIATION SECURITY ADVISORY COMMITTEE

<p>Training Candidate Checks Program form and fingerprints to the Department of Justice in accordance with 28 CFR part 105 before September 28, 2004, or a later date specified by TSA, is processed in accordance with the requirements of that part. If TSA specifies a date later than the compliance dates identified in this part, individuals and flight schools who comply with 28 CFR part 105 up to that date will be considered to be in compliance with the requirements of this part.</p>	
<p>(k) <i>Additional or missed flight training.</i> (1) A Category 1, 2, or 3 candidate who has been approved for flight training by TSA may take additional flight training without submitting fingerprints as specified in paragraph (a)(2)(x) of this section if the candidate:</p> <ul style="list-style-type: none"> (i) Submits all other information required in paragraph (a)(2) of this section, including the fee; and (ii) Waits for TSA approval or until the applicable waiting period expires before initiating the additional flight training. <p>(2) A Category 1, 2, or 3 candidate who is approved for flight training by TSA, but does not initiate that flight training within 180 days, may reapply for flight training without submitting fingerprints as specified in paragraph (a)(2)(x) of this section if the candidate submits all other information required in paragraph (a)(2) of this section, including the fee.</p>	<p>[Strike all because immaterial after new regulatory framework]</p>
<p>1552.5 Fees</p>	<p>1552.5 Fees</p>
<p>(a) <i>Imposition of fees.</i> The following fee is required for TSA to conduct a security threat assessment for a candidate for flight training subject to the requirements of § 1552.3: \$130.</p>	<p>(a) <i>Imposition of fees.</i> The following fee is required for TSA to conduct:</p> <ul style="list-style-type: none"> (i) a security threat assessment for a candidate for flight training subject to the requirements of § 1552.3: \$130. (ii) a notification for a candidate for flight training that is conducting a training event within 5 years of a valid security threat assessment in accordance with 1552.3 (c): \$5
<p>(b) <i>Remittance of fees.</i> (1) A candidate must remit the fee required under this subpart to TSA, in a form and manner acceptable to TSA, each time the candidate or the flight school is required to submit the information required under § 1552.3 to TSA. (2) TSA will not issue any fee refunds, unless a fee was paid in error.</p>	<p>(b) <i>Remittance of fees.</i> (1) A candidate or a flight school must remit the fee required under this subpart to TSA, in a form and manner acceptable to TSA, each time the candidate or the flight school is required to submit the information required under § 1552.3 to TSA. (2) TSA will not issue any fee refunds, unless a fee was paid in error.</p>
<p>Subpart B—Flight School Security Awareness Training</p>	<p>[No changes proposed by the working group.]</p>



Appendix A – Working Group Membership and TSA Participation

Jens C. Hennig, General Aviation Manufacturers Association (GAMA), ASAC GA Working Group Chair

Karlo Alvarez, The Boeing Company

Colleen Chamberlain, American Association of Airport Executives

Liam Connolly, Regional Airline Association

Sean Cusson, ACI-NA

Joe Dalton, NetJets

Alice Desiongco, SIMCOM Aviation Training

Megan Eisenstein, National Air Transport Association (NATA)

Scott Grandgeorge, NetJets Association of Shared Aircraft Pilots (NJASAP)

Matt Handy, Bombardier Flight Training

Carol Hill, Bombardier Flight Training

Lauren L. Haertlein, GAMA

Glenn Johnson, Victims of Pan Am 103

Thomas (Tom) Kilbourn, CAE

Gary Morrison, CAE (retired)

Robert Orlslagers, Centennial Airport, AAEE

James Lair, Flight Safety International,

Tony James, The Boeing Company,

John McGraw, NATA

Nobuyo Sakata, Aircraft Owners and Pilots Association (AOPA)

Craig Spence, AOPA

Eric Thacker, Airlines for America

Jeff Wendt, FlightSafety International

Sarah Wolf, National Business Aviation Association

Kevin Knott, TSA

Andrea Vara, TSA

Dean Walter, TSA ASAC DFO



Appendix B – List of Meetings

Conference call: September 18, 2015

Face-to-face meeting: October 28, 2015 at NATA

Conference Call: March 29, 2016

Presented to ASAC May 10, 2016

Attachment C: Dissenting Opinion on ASAC Alien Flight School Report

Association of Flight Attendants (AFA)

28 July 2016

The Association of Flight Attendants (AFA) provides its dissenting opinions related to the sections of the ASAC Alien Flight School Report (Report) provided below, so that the Transportation Security Administration (TSA) may give them due consideration in making its final decisions on these significant issues.

AFA Dissent #1

Report Section 2.0 Requirements for Vetting Pilots

Sec. 113 Flight School Security: This section required DOJ to conduct background checks on aliens seeking flight training in an aircraft having a maximum certificated takeoff weight of 12,500 pounds or more. Applicable training included in-flight training, training in simulators, and any other form or aspect of training. This section also established a requirement for security awareness training for employees of flight schools. (Report, p. 8)

AFA Opinion:

AFA believes that the effectiveness of the security awareness training for employees of flight schools is crucial in helping to maintain an appropriate level of aviation security. Beyond reviewing the public regulatory criteria of 49 C.F.R. § 1552.23, we have several questions that we would like to be answered. Who at TSA reviews the alternative initial security awareness training programs that are not provided directly by TSA? Are some of these alternative trainings monitored by TSA to ensure that they are appropriate for the ever-changing dynamic threats and vulnerabilities associated with violent crime and terrorism? Or does TSA consider it sufficient to just review the written elements of the program to see if they meet the criteria of 1552.23(c)? Also, do the training school employees really know whether and to whom to report different levels of non-emergency suspicious behavior? The regulation says to call the general aviation hotline. But who takes those calls and what are their qualifications? Are they trained in behavioral detection at a level higher than just awareness? How do they determine whether or not to forward the report to TSA or the FBI's Joint Terrorism Task Force (JTTF)? Additionally, AFA reviewed the public information of several organizations that provide this alternative training. None of the information available provided any information (beyond the regulatory requirements) about the appropriateness or effectiveness of any of these security awareness training courses. If there is no program of ongoing random audits of these training courses, how is their effectiveness ensured?

Although there may not be any known instances of adversaries trying to access information and aircraft through these flight schools, the events of 9-11 proved to us all that we may not see the threat and corresponding vulnerabilities until it is too late to save lives. Even if there is no direct intelligence concerning the likelihood of such an attack,

we must keep our training and operational security programs progressive and updated on a consistent basis.

AFA Dissent #2

Report Recommendation 5: The ASAC encourages TSA to work closely with other DHS agencies, including Immigration and Customs Enforcement, and the Department of State to provide improved clarity regarding visas applicable to flight training candidates including candidates in the United States for non-flight training purposes (e.g., H, F or permanent residents).

4.3 Vetting of U.S. Citizens

Per interest from Congress, the ASAC also considered requiring all individuals seeking flight training in an aircraft with a maximum certified takeoff weight of above 12,500 pounds and not holding a valid FAA airman's certificate to be checked against the terrorist watchlist. The ASAC noted that flight schools are likely to raise concerns about persons attempting to pursue their initial flight training in large aircraft and would likely notify the appropriate government agencies. Accordingly, the ASAC determined that it was unnecessary to recommend additional security requirements to identify these individuals. (Report, p. 24)

AFA Opinion:

Although it may be an unusual occurrence for a student to request initial training at the ab initio level, and would therefore stand out as suspicious, AFA believes that trusting that flight school personnel would "likely" make a report in a timely and effective manner is not good enough. AFA believes that even though there is apparently no current statutory requirement to provide notification, that this is a security gap that needs to be closed by making this notification "mandatory."

AFA Dissent #3

Report: Draft Amended 49 C.F.R. § 1552.3 Flight training: This section describes the procedures a flight school must follow before providing flight training. (Report, pp. 26-27).

AFA Opinion:

AFA believes that in addition to providing information for a Security Threat Assessment, a legitimate and trustworthy candidate should be able to produce two professional references. These would not necessarily have to be checked, but if the candidate cannot list bona fide professional references, or any professional references, then TSA should know such information about the candidate. In addition to the Security Threat Assessment, this information would be useful to TSA for investigative purposes in the event that suspicions are raised about the candidate, either during or subsequent to his or her flight school training. The professional references could be former employers or former instructors, etc. Requesting this information from candidates, in addition to establishing their identity, may provide valuable leads if an investigation of the candidate

later becomes advisable or necessary. Adding a requirement for this information is not burdensome and may later yield valuable benefits.

AFA requests that the following subsection be added to the above draft language:

(c) *Professional references:* A flight school may not provide flight training in the operation of any aircraft unless the flight training candidate is asked to provide a minimum of 2 professional references, such as a current or former Chief Pilot, professional evaluator, flight instructor or professional mentor who can attest to the applicant's previous flight training, flight experience, and suitability. The flight school shall submit this information to the TSA in a manner acceptable to TSA. If the candidate is unwilling or unable to provide these references, the flight school shall notify TSA of this circumstance in a manner acceptable to TSA.