DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Parts 1500, 1503, 1515, 1540, 1542, 1544, 1546, 1548, 1549, 1550, 1552, 1554, 1570, and 1572

[Docket No. TSA–2004–19147; Amendment No. 1552–1]

RIN 1652–AA35

Flight Training Security Program

AGENCY: Transportation Security Administration, DHS.

ACTION: Final rule.

SUMMARY: The Transportation Security Administration (TSA) is finalizing the 2004 interim final rule (IFR) that established the Flight Training Security Program (FTSP) (formerly known as the Alien Flight Student Program). The FTSP implements a statutory requirement under the Aviation and Transportation Security Act, as amended by the Vision 100–Century of Aviation Reauthorization Act, to prevent flight schools from providing flight training to any individuals who are not U.S. citizens or nationals, and who have not been vetted by the Federal Government to determine whether the flight training candidate is a security threat. The rule also requires security awareness training for certain flight training provider employees. In finalizing this rule, TSA addresses the comments on the IFR, recommendations from the Aviation Security Advisory Committee, and additional comments received during a reopened comment period. TSA also is eliminating years of programmatic guidance and clarifications by codifying current and relevant information into the regulatory text. Where possible, TSA is modifying the program to make it more effective and less burdensome. Finally, TSA is making other technical modifications to its regulations to consolidate in one location the agency's inspection authority.

DATES:

Effective Date: This rule is effective July 30, 2024.

Compliance Date: Flight training providers and individuals subject to the requirements of this rule must comply with these sections by July 30, 2024. Until this date, all regulated entities must continue to comply with the requirements in the IFR.

FOR FURTHER INFORMATION CONTACT:

Technical questions: D. Julean Thorpe, Enrollment Services and Vetting Programs, Vetting Programs Division, TSA; telephone: (571) 227–1932; email: *FTSP.help@tsa.dhs.gov.*

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SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Document

You can find an electronic copy of this rulemaking using the internet by accessing the Government Publishing Office's web page at *https://www.govinfo.gov/app/collection/FR/* to view the daily published **Federal Register** edition or accessing the Office of the Federal Register's web page at *https://www.federalregister.gov.* Copies are also available by contacting the individual identified for ''General Questions'' in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires TSA to comply with small entity requests for information and advice about compliance with statutes and regulations within TSA's jurisdiction. Any small entity that has a question regarding this document may contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Persons can obtain further information regarding SBREFA on the Small Business Administration's web page at *https://advocacy.sba.gov/resources/reference-library/sbrefa/.*

Abbreviations and Terms Used in This Document

AFSP—Alien Flight Student Program
ADIS—Arrival and Departure Information System
ASAC—Aviation Security Advisory Committee
ATSA—Aviation and Transportation Security Act
ATS—Automated Targeting System
CBP—U.S. Customs and Border Protection
CFI—Certified Flight Instructor
CFR—Code of Federal Regulations
CHRC—Criminal History Records Check
CTCEU—Counterterrorism and Criminal Exploitation Unit
DHS—Department of Homeland Security
DoD—Department of Defense
DOJ—Department of Justice
DOS—Department of State
E.O.—Executive Order
FAA—Federal Aviation Administration
FBI—Federal Bureau of Investigation
FR—Final Rule
FTSP—Flight Training Security Program
GAO—Government Accountability Office
HME—Hazardous Materials Endorsement
IACRA—Integrated Airman Certification and Rating Application
ICE—U.S. Immigration and Customs Enforcement
IDENT—Automated Biometrics Identification System
IFR—Interim Final Rule
NARA—National Archives and Records Administration
OMB—Office of Management and Budget
PIA—Privacy Impact Assessment
PRA—Paperwork Reduction Act
RFA—Regulatory Flexibility Act
RIA—Regulatory Impact Analysis
SAVE—Systematic Alien Verification for Entitlements
SENTRI—Secure Electronic Network for Travelers Rapid Inspection
SEVIS—Student and Exchange Visitor Information System
SEVP—Student and Exchange Visitor Program
SORN—System of Records Notice
STA—Security Threat Assessment
TSA—Transportation Security Administration
TWIC—Transportation Worker Identification Credential
U.S.—United States
U.S.C.—United States Code
USCIS—U.S. Citizenship and Immigration Services

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I. Overview

A. Purpose of This Rulemaking

This rulemaking finalizes an IFR issued in 2004.[1] The purpose of this rulemaking is to prevent non-U.S. citizens[2] who are potential threats to aviation or national security from receiving flight training. Since issuance of the 2004 IFR, TSA's vetting of flight training candidates has identified a number of individuals as potential security threats,[3] including some certificated[4] pilots.

This final rule addresses all public comments received on the IFR, both through the initial comment period in 2004 and a reopened comment period in 2018.[5] TSA is also addressing recommendations TSA received from regulated persons, other Federal organizations, and advisory committees. Finally, TSA is eliminating more than a decade of previously issued clarifications and interpretations, either by addressing them in the preamble or through changes to the regulatory text. All previously issued clarifications and interpretations are superseded by this rulemaking.

In addition, Executive Order (E.O.) 13563 of January 18, 2011 (Improving Regulation and Regulatory Review), requires agencies to periodically review existing regulations to identify requirements that ''may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them, in accordance with what has been learned.''[6] Consistent with these requirements, this final rule provides an overall reduction in the burden of compliance through several modifications that will reduce the regulatory burden without negatively affecting security. For an

[1] *See* 69 FR 56324 (Sep. 20, 2004), *codified at* 49 CFR part 1552.

[2] The enabling statute for this rule applies to aliens as the term is defined in 8 U.S.C. 1101(a)(3). *See* 49 U.S.C. 44939. Section 1101(a)(3) defines an ''alien'' as ''any person who is not a citizen or national of the United States.'' Section 1101(a)(22) defines a ''national of the United States'' as ''(A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.'' Similarly, 8 U.S.C. 1401 *et seq.* sets the criteria for ''nationals and citizens of the United States.'' TSA historically adopted the terminology from the status, using the term ''alien'' in program documents, and originally titling the program as the Alien Flight Student Program. In 2021, the President directed DHS to cease using the term ''alien,'' recommending the term ''non-citizen'' in its place. Some candidates in the FTSP program have taken offense at being referred to as ''non-citizens.'' With this rulemaking, TSA is modifying 49 CFR part 1552 to use the term ''non-U.S. citizen'' for any individual who is an ''alien'' as defined in 8 U.S.C. 1101(a)(3), is not a ''national'' of the United States as defined in 8 U.S.C. 1101(a)(22), or who does not meet the requirements to be a national or citizen of the United States under 8 U.S.C. 1401 *et seq.* Throughout this preamble and through revisions to the rule, the term ''non-U.S. citizen'' means a person who is not a U.S. citizen or U.S. national.

[3] TSA uses the term ''threat'' in all of its vetting programs, which is an essential element of the risk that an individual may pose to aviation, transportation security, or national security. The statute requiring the FTSP program uses the term ''risk,'' *see id.,* which is a broader term that incorporates ''threat'' as used by TSA. DHS generally sees risk as a function of threat, vulnerability and consequences.

[4] ''Certificated'' is a term used by the FAA for an individual who has been granted an FAA certificate.

[5] *See* 83 FR 23238 (May 18, 2018).

[6] *See* Sec. 6 of E.O. 13563.

overview of these modifications, see section I.D.

B. Statutory and Rulemaking History

1. Introduction

Several of the terrorists who hijacked planes used to commit the terrorist attacks on September 11, 2001, received flight training in the United States.[7] To address this security vulnerability, Congress passed the Aviation and Transportation Security Act (ATSA), which required those who are not U.S. citizens or nationals (hereafter, referred to collectively as ''non-U.S. citizens'') to undergo vetting in order to receive flight training in the United States.[8] Specifically, section 113 of ATSA included two prerequisites for providing flight training to non-U.S. citizens: (1) the flight training provider must first notify the Attorney General that the individual requested such training and must submit information about the individual to the Attorney General; and (2) the Attorney General must determine that the individual does not present a risk to aviation or national security.[9] ATSA also required the training provider to give the Attorney General information regarding the individual's identity in the form required by the Attorney General.[10] This provision gave the Attorney General the discretion to request a wide variety of information from these individuals in order to determine whether they presented a risk[11] to aviation or national security.

On February 13, 2003, the Department of Justice (DOJ) issued a final rule implementing the ATSA requirement.[12] The DOJ rule applied to individual flight training providers, training centers, certificated carriers, and flight schools (collectively referred to as ''providers''), including those located in countries other than the United States, if they provided training leading to a U.S. license, certification, or rating.[13]

The DOJ rule also required a provider to submit certain identifying information for each non-U.S. citizen (referred to as ''candidates'') and other individuals designated by the Administrator of TSA[14] before providing training to the candidate. Using the information provided, which included fingerprints and financial information, DOJ performed a risk assessment. Consistent with the requirements in section 113 of ATSA, if DOJ did not complete a candidate's risk assessment within the time period designated in the statute, the provider could initiate the candidate's training. If the training provider received subsequent notification that the candidate presented a risk to aviation or national security, the provider was required to immediately cease the candidate's training.

Beginning in December 2003, the following series of legislative actions substantially modified the requirements in ATSA.

- The Vision 100-Century of Aviation Reauthorization Act (the Vision 100 Act)[15] transferred the function of vetting candidates from the Attorney General to the Secretary of the Department of Homeland Security (DHS)[16] and required DHS to issue an IFR to implement additional requirements added to 49 U.S.C. 44939.[17] These amendments included authority for DHS to charge for the costs of conducting the required vetting.[18]
- Section 520 of the Department of Homeland Security Appropriations Act, 2004 required the collection of fees authorized by the Vision 100 Act.[19]
- Section 543 of the Department of Homeland Security Appropriations Act, 2009, further amended 6 U.S.C. 469 to ensure the scope of the program includes both initial and recurrent training.[20] This law required DHS to establish a process to properly identify individuals who are non-U.S. citizens who receive recurrent flight training, and to ensure that those individuals do not pose a risk to aviation or national security. These amendments also authorize DHS to impose reasonable fees to recoup the cost of vetting candidates seeking recurrent training.[21]

ATSA created TSA as a component of the Department of Transportation. Section 403(2) of the Homeland Security Act of 2002 (HSA)[22] transferred all functions related to transportation security, including those of the Secretary of Transportation and the Under Secretary of Transportation for Security, to the Secretary of Homeland Security. Pursuant to DHS Delegation Number 7060.2, the Secretary delegated to the Administrator of TSA, subject to the Secretary's guidance and control, the authority vested in the Secretary with respect to the TSA, including the authority in section 403(2) of the HSA.

TSA established the FTSP by issuing an IFR with request for comments on September 20, 2004.[23] The IFR implemented many of the same requirements as the program previously administered by DOJ pursuant to the statutory requirements in 49 U.S.C. 44939. Consistent with section 520 of the Department of Homeland Security Appropriations Act of 2004, the IFR also set fees to cover costs incurred by the program.[24] As required by section 543 of the Department of Homeland Security Appropriations Act of 2009, TSA subsequently published a notice in the **Federal Register** announcing an additional fee to cover processing of a security threat assessment (STA)[25] for each candidate engaged in recurrent training.[26]

2. Imposing Fees for the FTSP

As noted above, TSA is authorized to collect fees under 49 U.S.C. 44939 and is required to collect fees to cover the costs of vetting under 6 U.S.C. 469. To comply with 6 U.S.C. 469, which requires TSA to fund vetting and credentialing programs through user fees, TSA charges fees for candidates who receive an STA under the FTSP.

TSA determined the fees for the FTSP program in accordance with Office of Management and Budget (OMB)

[7] *See The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the U.S.,* Official Government Edition, at ch. 7 (U.S. Government Printing Office, 2004).

[8] Public Law 107–71 (115 Stat. 597; Nov. 19, 2001), codified at 49 U.S.C. 44939, as amended.

[9] *Id.*

[10] *Id.*

[11] TSA uses the term ''threat'' in all of its vetting programs which is an essential element of the risk that an individual may pose to aviation, transportation security, or national security. The statute requiring the FTSP program uses the term ''risk,'' *see id.,* which is a broader term that incorporates ''threat'' as used by TSA. DHS generally sees risk as a function of threat, vulnerability and consequences. *See https://www.dhs.gov/sites/default/files/publications/18_0116_MGMT_DHS-Lexicon.pdf.*

[12] 68 FR 7313 (Feb. 13, 2003).

[13] *Id.* at 7318.

[14] Referred to at that time as the Department of Transportation's Under Secretary for Transportation Security.

[15] Vision 100—Century of Aviation Reauthorization Act, Public Law 108–176 (117 Stat. 2490, 2574; Dec 12, 2003).

[16] *See id.* at section 612 (amending 49 U.S.C. 44939).

[17] *See id.* at section 612(b)(1). For a discussion of the amendments to 49 U.S.C. 44939, see section I.C of the 2004 IFR, 69 FR at 56327.

[18] *See id.* at section 612(a) (amending 49 U.S.C. 44939(g)).).

[19] *See* section 520 of Public Law 108–90 (Oct. 1, 2003), as codified at 6 U.S.C. 469(b).

[20] *See* section 543, Division D of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, Public Law 110–329 (122 Stat. 3574; Sept. 30, 2008).

[21] *See id.*

[22] Public Law 107–296 (116 Stat. 2135; Nov. 25, 2002).

[23] *See supra* note 1.

[24] *See supra* note 19. Section 520 of the DHS Appropriations Act, 2004, as codified at 6 U.S.C. 469(a), requires TSA to collect fees to cover the costs of performing background record checks.

[25] For purposes of this rulemaking and consistent with common vetting terminology, TSA uses the term ''security threat assessment'' or ''STA'' in place of the term ''security background check.''

[26] *See* 74 FR 16880 (Apr. 13, 2009). *See also supra* note 20 for more information on the DHS Appropriations Act of 2009.

Circular No. A–25. The fees are set to recover a share of the service costs from all individuals that use a particular service, and a description of the processes that went into estimating the proposed fees is available in the Fee Report in the rulemaking docket. TSA may increase or decrease the fees described in this regulation to achieve efficiencies or to accommodate inflation, changes in contractual services, changes in populations, or other factors following publication of the final rule. TSA will publish a notice in the **Federal Register** notifying the public of any fee changes and will update fee information on the website dedicated to this program.

TSA incurs costs associated with performing STAs, assessing comparable STAs, conducting expedited processing, requesting Federal Bureau of Investigation (FBI) reviews, issuing Determinations of Eligibility, maintaining the FTSP Portal, and processing provider notifications of flight training events. TSA expends resources to establish, operate, and maintain the technology to facilitate the STA process for candidates and provider compliance with this program entirely through the FTSP Portal. In addition, TSA assumes in its analysis that some online interactions will result in customer service expenses.

A candidate pays a single fee that consolidates all fees assessed by TSA, as presented in section II.C.2. The FTSP fee structure is designed to cover TSA's anticipated costs of conducting and administering STA services over the 5-year duration of each STA. TSA calculated the proposed fees based on estimates for the cost of each respective service, pertinent to the expected number of candidates that will benefit from the services. The following summarizes the costs consolidated into the fee:

- Once candidate information is captured and records are established, TSA incurs costs to run the information through the various databases accessed for the STA. TSA incurs costs to construct, maintain, and operate the information technology platform that enables comparisons of applicant information to multiple intelligence, immigration and law enforcement databases, and other information sources.
- TSA incurs additional expenses to evaluate the information received from these sources, make decisions as to whether a candidate may pose a security threat, correct records with the candidate when necessary, and communicate with other entities, such as the candidate's employer, flight training provider, or governmental agencies.
- Additional costs include staffing for this service to (1) adjudicate the results of Criminal History Records Checks (CHRCs); (2) conduct immigration checks; (3) provide candidates an opportunity to correct their records; and (4) process the recordkeeping and training event notifications required by the program.
- Finally, the fee includes the FBI's fee to process CHRCs. TSA collects this fee and forwards it to the FBI.

To properly recover the cost of this vetting service, TSA set the FTSP standard fee at $140, and the FTSP reduced fee at $125. As discussed more fully in section II.C.2.b., candidates may be eligible for a reduced fee if they already completed a comparable STA recognized by TSA.[27]

3. Evolution of Flight Training Security

In late 2004 and early 2005, after the IFR took effect, TSA held six meetings with industry representatives subject to the regulatory requirements. In response to questions and concerns raised during these meetings and through public comments submitted on the IFR, TSA issued clarifications, interpretations, exemptions, and other guidance documents.[28] This final rule reflects TSA's review of these previously issued documents and statements, for both internal and external audiences, and determinations of whether to make them permanent. As a result of this review, any previously issued interpretations of the provisions of 49 CFR part 1552 published on or before the effective date of this final rule are withdrawn and superseded by this rulemaking.

In July 2012, the Government Accountability Office (GAO) reviewed the program and provided the following recommendations to TSA: (1) identify instances where non-U.S. citizens receive Federal Aviation Administration (FAA) airman certificates without first undergoing an STA and the reasons for these occurrences; (2) strengthen controls to prevent future occurrences; and (3) establish a pilot program to check the program's data against DHS data on candidates' admissibility status to help detect immigration violations by non-U.S. citizen flight students (see discussion in section II.D.).[29] DHS concurred with these recommendations. TSA adopted the following corrective actions that continue to operate under this final rule: TSA and the FAA exchange data under a memorandum of understanding, and TSA sends a candidate's information to the U.S. Customs and Border Protection (CBP) Arrival and Departure Information System (ADIS) to assist CBP in determining a candidate's purpose for entering the United States when they arrive at the U.S. border. *See* discussion in section II.D.

As discussed more fully in section II.D.1, TSA also works directly with U.S. Immigration and Customs Enforcement (ICE), U.S. Citizenship and Immigration Services (USCIS), and CBP to share information and address unique circumstances regarding candidates. TSA refers candidates who appear to be engaged in unauthorized employment, criminal violations, and/or visa overstays to the ICE Counterterrorism and Criminal Exploitation Unit (CTCEU). CTCEU reviews the candidate's primary purpose for being in the United States and provides that information to TSA to assist TSA in making a Determination of Eligibility for the candidate. TSA uses the USCIS Systematic Alien Verification for Entitlements (SAVE) program and the DHS Automated Targeting System (ATS), administered by CBP to resolve immigration concerns.[30] GAO closed its recommendations as a result of these actions.[31]

4. Aviation Security Advisory Committee's Recommendations

Since issuance of the IFR, TSA has also engaged regularly with the Aviation Security Advisory Committee (ASAC).[32]

[27] *See* fee study and Regulatory Impact Analysis posted on the public docket at *https://www.regulations.gov/docket?D=TSA-2004-19147.*

[28] A list of these documents may be found under Supporting & Related Material in the public docket for the FTSP program, at *https://www.regulations.gov/docket/TSA-2004-19147/document?documentTypes=Supporting%20%26%20Related%20Material.*

[29] *See* GAO–12–875, July 18, 2012, *available at https://www.gao.gov/products/GAO-12-875.*

[30] FTSP uses CBP's ATS—Unified Passenger module to compare candidate information against law enforcement, intelligence, and other data. TSA shares information with CBP through ADIS to support admissibility determinations of approved flight training candidates.

[31] The use of information related to the FTSP is covered by the Transportation Security Threat Assessment System of Records Notice (SORN), most recently updated at 79 FR 46862 (Aug. 11, 2014). TSA also shares information within DHS in compliance with section (b)(1) of the Privacy Act of 1974 (5 U.S.C. 552a (Privacy Act).

[32] The ASAC is an official advisory body established under 49 U.S.C. 44946. The ASAC is composed of representatives from air carriers, all-cargo air transportation, indirect air carriers, labor organizations representing air carrier employees, labor organizations representing transportation security officers, aircraft manufacturers, airport operators, airport construction and maintenance contractors, labor organizations representing employees of airport construction and maintenance contractors, general aviation, privacy organizations,

Continued

The Aviation Security Stakeholder Participation Act of 2014 established the ASAC as an advisory committee with whom the Administrator of TSA consults, as appropriate.[33] In 2016, the ASAC submitted five recommendations to the Administrator regarding the FTSP, including: (1) moving from an event-based STA to a time-based STA; (2) addressing recordkeeping requirements between parties to wet and dry aircraft and simulator leases; (3) requiring the use of the FTSP program for Department of Defense (DoD) endorsees; (4) clarifying which events require an STA; and (5) clarifying the impact of visa applicability on flight training.[34] This final rule addresses each of these recommendations.

5. Reopening of Comment Period

In 2018, TSA reopened the comment period on the IFR to ensure TSA adequately considered the current operational environment when finalizing the IFR, to solicit updated comments following the original comment period in 2004, and to solicit comments on the substance of the 2016 ASAC recommendations related to the FTSP that were under consideration.[35] In particular, TSA requested comments on six issues: (1) costs and benefits of requiring flight training providers to undergo an STA; (2) impact of moving from an event-based to time-based STA requirement; (3) appropriate compliance requirements for parties involved in leases of aircraft, aircraft simulators, and other flight training equipment; (4) impact of allowing regulated parties to use electronic recordkeeping, in whole or in part, to establish compliance; (5) implications of refining the scope of STAs for candidates who train with FAA-certified flight instructors operating outside of the United States; and (6) sources of data on the number or percentage of flight schools that only train U.S. citizens. TSA also requested the submission of any other data or information available that it should consider during the review of the IFR. TSA requested new comments in these areas to expand upon issues raised by one or more commenters in response to the IFR in 2004. See section IV for additional details on the comments received.

Although 5 years have passed since TSA last solicited comments, TSA does not believe the policymaking landscape for this rule has shifted substantively since 2018. The policy changes in this rule are supported by comments received on the IFR, or by comments received following the 2018 reopened comment period. TSA tailored the scope and content of the final rule to reflect only those changes that are supported by the public record.

C. Organization of Final Rule

The IFR divided the requirements into two subparts: flight training and security awareness training. To provide greater clarity, this final rule consists of three subparts. Subpart A outlines the scope of the regulation, defines terms, and prescribes general requirements applicable to all flight training providers. Subpart B prescribes requirements applicable to all candidates regarding STAs and associated fees. Subpart C prescribes requirements applicable to all flight training providers concerning notification and management of flight training events. Table 1 provides a distribution table for changes to current 49 CFR part 1552.

TABLE 1—DISTRIBUTION TABLE

IFR	Final rule
1552.1(a);1552.21(a) (scope)	1552.1
1552.1(b); 1552.21(b) (definitions)	1552.3
1552.3(a)–(d) and (k) (notification of flight training events)	1552.7 and 1552.51
1552.3(a)–(d) and (k) (submission of information)	1552.31
1552.3(a)–(d), 1552.5 (fee)	1552.39
1552.3(e) (interruption of flight training)	1552.31
1552.3(f) (fingerprints)	1552.31
1552.3(g)(1) (false statements)	1552.19
1552.3(g)(2) (preliminary approval)	1552.35
1552.3(h) (U.S. citizens and DoD endorsees)	1552.7
1552.3(i)(1) and 1552.25(a) (recordkeeping)	1552.15
1552.3(i)(2) and 1552.25(c) (inspection)	1503.207
1552.3(j) (grandfathered candidates)	(removed)
1552.23 (security awareness training)	1552.13

D. Regulatory Relief

With publication of this final rule, TSA is modifying the FTSP regulations to reduce the regulatory burden of compliance. Consistent with E.O. 13563 of January 18, 2011,[36] and TSA's statutory mandate under 49 U.S.C. 114(l)(3), TSA has considered the impact of the costs and the security benefits and determined that burden reduction modifications can be made to the program without negatively affecting the appropriate security posture or failing to execute the statutory mandates. Three changes to the regulatory requirements will result in notable cost savings to the industry: (1) modifying the refresher security awareness training[37] from an annual to a biennial requirement; (2) providing for electronic recordkeeping and a dedicated website (the FTSP Portal);

the travel industry, airport-based businesses (including minority-owned small businesses), businesses that conduct security screening operations at airports, aeronautical repair stations, passenger advocacy groups, the aviation security technology industry (including screening technology and biometrics), victims of terrorist acts against aviation, and law enforcement and security experts. The Administrator of TSA consults with the ASAC, as appropriate, in developing, refining, and implementing policies, programs, rulemaking, and security directives.

[33] Public Law 113–238 (128 Stat. 2842; Dec. 18, 2014), *as codified at* 49 U.S.C. 44946.

[34] *See* ASAC Meeting Minutes from July 28, 2016, *available at https://www.tsa.gov/sites/default/files/asac_meeting_minutes_28jul2016-final.pdf* for the full report. Note that neither the minutes nor this rulemaking contain or address recommendations that include Sensitive Security Information under 49 CFR part 1520.

[35] *See* 83 FR 23238 (May 18, 2018).

[36] *See supra* note 6.

[37] In the IFR, the term ''recurrent training'' applied both to flight training for candidates and security awareness training for employees. Through this final rule, TSA is modifying the security awareness training terminology to require ''refresher training'' rather than ''recurrent training'' to distinguish the two requirements.

and (3) moving from an event-based STA to a time-based STA.

1. Reducing Frequency of Security Awareness Training

The Vision 100 Act includes a requirement for the FTSP to mandate security awareness training for flight training provider employees to ''increase their awareness of suspicious circumstances and activities of individuals enrolling in or attending flight school.'' [38] The IFR required this training to be provided on an annual basis. In response to industry feedback as discussed further in section IV.C.5.b., the final rule has reduced the required frequency of security awareness training to provide economic and logistical relief to flight training providers, and to provide more flexibility in how they schedule refresher training. Specifically, the final rule replaces the IFR's annual security awareness training requirement with a requirement for all covered flight training provider employees to receive initial training within 60 days of hiring, and a biennial refresher training requirement thereafter. TSA discusses these changes further in section II.B.6. A provider may conduct refresher training on or before the 2-year anniversary of the previous initial training or the last refresher training.

2. Electronic Recordkeeping and FTSP Portal

At the industry's request, TSA provided an online portal that flight training providers use to meet the requirement to notify TSA of a candidate's proposed and actual flight training events. This capability was first provided in 2004 and updated in 2007. Today, all flight training providers use TSA's online portal; no candidates or flight training providers submit applications via traditional paper-based methods. The final rule codifies this capability as mandatory for this purpose.

This modification is consistent with multiple recommendations from industry to establish an electronic storage capability for provider accounts, to ease their storage costs and time burdens. In addition to informal comments on this issue since the rule was first issued, the recommendation was formally submitted to TSA in the comments during the reopened comment period in 2018, requesting that TSA ''allow regulated parties to use electronic recordkeeping, in whole or in part, to establish compliance.'' [39]

In response to these comments, and generally recognizing advancements in electronic recordkeeping since the IFR was published, TSA has enhanced its web-based capabilities to facilitate submission of information and recordkeeping compliance. Through this rule, TSA is expanding the availability of this option for both required and optional use. Providing this option recognizes that flight training providers may realize cost and time savings and reduce or eliminate duplicative and costly physical and electronic recordkeeping by storing and maintaining their records on the FTSP Portal. Section V describes TSA's analysis of estimated cost savings for providers as a result of these changes.

TSA may also benefit from the enhanced capabilities of the FTSP Portal to increase efficiency and effectiveness in monitoring compliance. Ready availability of stored records also provides TSA with more immediate access to information about a candidate who has been identified as a potential threat.

3. Time-Based STAs

Currently, an STA is required for each training event. Consistent with recommendations and new vetting capabilities, under § 1552.31(d) of this final rule, an STA is valid for up to 5 years. See IV.C.5.B. for a more detailed discussion. This change from an event-based STA to a time-based STA is possible due to significant improvements in TSA's ability to conduct recurrent vetting of candidates, which enables TSA to review a candidate's record on an on-going basis. As discussed more fully in section II.D., TSA conducts recurrent vetting of candidates through several intelligence databases that include terrorist watchlists and can conduct continuous CHRCs of candidates for disqualifying offenses through the FBI's Rap Back service. This change aligns the FTSP with other TSA programs, such as TSA PreCheck®, Transportation Worker Identification Credential (TWIC®), and Hazardous Materials Endorsement (HME).[40]

Recurrent vetting has several benefits that reduce costs and enhance security. First, recurrent vetting enables TSA to ensure security while allowing for a time-based STA that can be valid for a 5-year period. Second, as discussed more fully in section II.D.4., recurrent vetting allows TSA to continually vet a candidate and revoke the approval if and when disqualifying information emerges. Third, recurrent vetting enables TSA to reduce the costs of the rule by reducing delays in processing training requests and supporting the portability or sharing of a candidate's Determination of Eligibility among flight training providers.

This modification will reduce costs and save time for individuals who have multiple training events over a 5-year period. Rather than paying a fee for each vetting event, candidates will pay a single fee for a 5-year STA. As many candidates will have multiple training events within a 5-year period, the time-based STA is likely to reduce the total amount of fees most candidates must pay over time.[41] Section 1552.51(f) also allows expedited processing for candidates that hold type ratings [42] and candidates who are lawful permanent residents of the United States. As discussed in more detail in sections IV.C.5.b.–d., TSA received many comments indicating that this change would likely foster industry growth.

E. Summary of Other Modifications

This final rule includes additional modifications that will provide benefits to the flight training industry and enhance security. First, the final rule incorporates previously issued clarifications concerning what type of training is covered by the regulation while eliminating the four weight-based categories of training identified by the IFR. TSA's response to comments in section IV.C.4.a. provides more information on these revisions. Second, the rule clarifies who is responsible for maintaining records of lease arrangements. Section II.A.2. and TSA's response to comments in section IV.C.2.c. provides more information on these revisions. Third, the final rule aligns this program with TSA's other transportation security programs by requiring flight training providers to designate a Security Coordinator to serve as a security liaison with TSA. Section II.B.5. provides more information on these revisions.

TSA also is consolidating provisions found throughout TSA's regulations relating to inspections, as well as

[38] *See* 49 U.S.C. 44939(i).

[39] Four major industry organizations and one major flight training provider posted comments using this same explanation of the request. All comments are available in the docket to this rulemaking (TSA–2004–19147) at *www.regulations.gov*.

[40] As discussed more fully in section II.C.2.b. (and the fee study and Regulatory Impact Analysis (RIA) in the docket for this rulemaking), TSA provides a reduced fee for individuals who have completed a comparable STA, as determined by TSA. *See also* § 1552.37.

[41] *Id.*

[42] ''Type rating'' means an endorsement on a pilot certificate indicating the make and type of aircraft that the individual has the skill or authorization to operate, and that the holder of the certificate has completed the appropriate training and testing required by a civil or military aviation authority.

harmonizing and consolidating terminology. TSA is mandated to: (1) enforce its regulations and requirements; (2) oversee the implementation and ensure the adequacy of security measures; and (3) inspect, maintain, and test security facilities, equipment, and systems for all modes of transportation.[43] Through this regulation, TSA is making a technical amendment to consolidate inspection requirements in one location, a new § 1503.207 in 49 CFR part 1503, which is that part of TSA's regulations that specifically focuses on investigative and enforcement procedures applicable to all of TSA's regulatory requirements. TSA also is removing the definition of ''Public transportation agency'' from § 1503.103. TSA added the definition of a public transportation agency to § 1500.3 through a separate rulemaking, making the definition in § 1503.103 unnecessary.[44]

TSA also is making technical amendments to consolidate into a single location several definitions applicable to the FTSP that are also used in other parts of TSA's regulations. These amendments standardize and harmonize the meaning of the following terms, without substantively changing their meaning: ''Citizen of the United States,'' ''Day,'' ''Lawful Permanent Resident,'' ''National of the United States,'' and ''Non-U.S. Citizen.'' [45]

In each case, the harmonized definition added to § 1500.3 reflects TSA's long-standing interpretation of the term, and the clearest expression of its meaning. This final rule also removes these terms from the definition sections of other parts of 49 CFR chapter XII, as appropriate.

TSA also revised and added definitions to § 1552.3 that further clarify regulatory requirements and minimize ambiguity. Revised definitions include ''Aircraft Simulator,'' ''Candidate,'' ''Demonstration flight for marketing purposes,'' ''Flight Training,'' and ''Recurrent training.'' New definitions include ''Determination of Eligibility,'' Determination of Ineligibility,'' ''DoD,'' ''DoD Endorsee,'' ''Flight Training Provider,'' ''Flight Training Provider Employee,'' ''Flight Training Security Program (FTSP),'' ''FTSP Portal,'' ''FTSP Portal account,'' ''Non-U.S. Citizen,'' ''Security Threat,'' ''Security Threat Assessment,'' ''Simulated flight for entertainment purposes,'' and ''Type rating.''

II. Summary of Regulatory Requirements

A. Who is required to comply?

As noted above, the purpose of this rule is to prevent the provision of flight training to non-U.S. citizens who may pose a security risk. In general, the requirements apply to those who provide flight training (flight training providers), those who provide equipment for flight training (lessors of flight training equipment), and those who receive flight training (candidates). This rule prohibits providing flight training to a candidate, as defined in § 1552.3, unless the flight training provider and candidate submit certain information to TSA, the candidate remits the specified fee to TSA, and TSA determines that the candidate is not known or suspected to be a threat to aviation or national security.

1. Flight Training Providers

Under the final rule, a flight training provider is defined in § 1552.3 to include the following persons:

- Any person that provides instruction under 49 U.S.C. subtitle VI, part A, in the operation of any aircraft or aircraft simulator in the United States or outside the United States, including any pilot school, flight training center, air carrier flight training facility, or individual flight instructor certificated under 14 CFR part 61 (providers who are either individual FAA Certified Flight Instructors (CFIs) or a group of associated-CFIs that provide training services); part 141 (providers who are FAA certificated); part 142 (providers who are training centers certificated by FAA); and parts 121 and 135 (providers who are U.S. air carriers and U.S. aircraft operators and conduct in-house training for their businesses). As required to comply with applicable Federal Equal Employment Opportunity laws, U.S. operators providing in-house training for its employees must conduct training and report threat assessments in a manner that is consistent with these laws and free from discrimination.
- Similar persons certificated by foreign aviation authorities recognized by the FAA, who provide flight training services in the United States.
- Any lessor of aircraft or aircraft simulators for flight training, if the entity or company leasing their equipment is not covered by the previous two categories.

Through this final rule, TSA is revising the definition of flight training providers to provide greater clarity and to ensure the regulatory program aligns with the scope of the statute. The scope of 49 U.S.C. 44939 includes persons ''operating as a flight instructor, pilot school, or aviation training center,'' which the IFR captured under the general term ''flight school.'' Adopting the term ''flight training provider'' clarifies the rule's broad applicability to the flight training industry, consistent with 49 U.S.C. 44939.

2. Lessors of Flight Training Equipment

In response to comments received on the IFR in 2004 and in 2018, and in response to a request from the ASAC, TSA is providing clarity regarding which party to an aircraft or simulator lease agreement is responsible for compliance with this part. In most lease situations, the lessee of the simulator or other equipment is a certificated flight training provider. In situations where the lessee of the equipment is not registered with TSA as a flight training provider, however, the lessor is considered the flight training provider for purposes of assuming reporting and recordkeeping responsibilities. For example, a foreign government may bring its own instructors and candidates to the United States for flight training on leased equipment, but TSA cannot require a foreign government to register as a flight training provider. Through the definitions and the applicability stated in §§ 1552.3 and 1552.5, TSA is clarifying that in similar cases, the company owning the aircraft simulator must register as a flight training provider and comply with the requirements in this rule.

3. Candidates

The requirements of this rule directly affect candidates for flight training. As defined in § 1552.3, a candidate is anyone applying for flight training who is neither a U.S. citizen nor a foreign military pilot endorsed by the DoD (DoD endorsee). Candidates must establish an account on the FTSP Portal to apply for an STA, submit biographic and biometric information, and pay their fee using *Pay.gov*. After the candidate has completed the STA process and received a Determination of Eligibility, they may share their Determination of Eligibility with one or more flight training providers through the FTSP Portal. Figure 1 in section II.F summarizes candidate requirements.

B. What must flight training providers do in order to comply?

Flight training providers must not provide flight training or access to any flight training equipment to any

[43] *See* 49 U.S.C. 114(f).

[44] *See* 85 FR 16456 (March 23, 2020).

[45] TSA's definitions relating to a person's citizenship status are consistent with the definitions set out in the Immigration and Nationality Act and those used by the U.S. immigration agencies. Should the definitions change, TSA will make corresponding revisions in title 49 of the CFR as necessary.

individual (a U.S. or non-U.S. Citizen) before first establishing whether the individual is a candidate for flight training (a non-U.S. Citizen required to complete an STA). Flight training providers must notify TSA of all training events for candidates and must validate that the candidate has a current Determination of Eligibility before providing training. All flight training providers also must designate a Security Coordinator, provide security awareness training to their employees, and maintain records to demonstrate compliance with this part. Figure 2 in section II.F summarizes the requirements. Subsections 1 through 7 below describe these requirements in greater detail.

1. Determine Whether an Individual Is a Candidate for Flight Training

The FTSP, consistent with 49 U.S.C. 44939, imposes vetting requirements on individuals who are non-U.S. citizens or who have not been endorsed by the DoD. The first step towards compliance is determining whether an individual seeking training is a candidate required to comply with this part, *i.e.,* not a U.S. citizen, not a U.S. national, and not a DoD endorsee, and not otherwise exempt.

a. Verify Whether an Individual Is a U.S. Citizen or U.S. National (§ 1552.7(a)(1))

U.S. citizens and U.S. nationals are exempt from the requirement to undergo an STA, but the flight training provider must verify an individual's U.S. citizenship or U.S. nationality by checking official documents presented by the individual. While the final rule retains the IFR's verification requirements, TSA is removing the IFR's list of specific documents that are acceptable to establish U.S. citizenship, U.S. nationality, foreign nationality, or presence in the United States.

TSA will maintain a list of common official documents suitable to identify U.S. citizens and U.S. nationals on the FTSP Portal, and will update the list as any relevant laws or national policies change. As of the publication date for this final rule, any of the identity documents listed in the first column of table 2 can be used to establish U.S. citizenship and nationality.[46] If a U.S. citizen or U.S. national does not have one of these documents, the individual must provide two qualifying documents: one document from List A and one document from List B.

TABLE 2—TWO OPTIONS FOR DOCUMENTS VALIDATING U.S. CITIZENSHIP AND NATIONALITY

Option 1: provide one of the following documents establishing identity and U.S. citizenship	Option 2: provide 1 document from List A AND 1 document from List B	
	List A—valid proof of U.S. citizenship	List B—Valid photo identification
• Unexpired U.S. Passport (book or card). • Unexpired Enhanced Tribal Card. • Unexpired Free and Secure Trade Card (designates U.S. citizenship if indicated on the document). • Unexpired NEXUS Card (designates U.S. citizenship if indicated on the document). • Unexpired Secure Electronic Network for Travelers Rapid Inspection (SENTRI) Card (designates U.S. citizenship if indicated on the document). • Unexpired Global Entry Card (designates U.S. citizenship if indicated on the document). • Unexpired U.S. Enhanced Driver's License or Unexpired Enhanced Identification Card (designates U.S. citizenship if indicated on the document).	• U.S. Birth Certificate. • U.S. Territory Birth Certificate. • U.S. Certificate of Citizenship (N–560 or N–561). • U.S. Certificate of Naturalization (N–550 or N–570). • U.S. Citizen Identification Card (I–179 or I–197). • Consular Report of Birth Abroad (FS–240) • Certification of Report of Birth Abroad (DS–1350 or FS–545). • Expired U.S. passport (book or card) within 12 months of expiration if one or more of the documents in List B is also presented.	• Unexpired driver's license issued by a State or outlying possession of the United States. • Unexpired temporary driver's license plus expired driver's license (constitutes one document). • Unexpired photo ID card issued by the Federal Government or by a State or outlying possession of the United States that includes a Federal or State agency seal or logo (such as a State university ID) (permits, such as a gun permit, are not considered valid identity documents). • Unexpired U.S. military ID card. • Unexpired U.S. retired military ID card. • Unexpired U.S. military dependent's card. • Native American tribal document with photo. • Unexpired DHS/TSA TWIC Credential. • Unexpired Merchant Mariner Credential. • Expired U.S. passport within 12 months of expiration if one or more of the documents in List A is also presented.

b. Verify Status of Foreign Military Pilots Endorsed by the DoD (§ 1552.7(a)(2))

Foreign military pilots endorsed by the DoD are exempt from the requirement to undergo an STA, as provided in 49 U.S.C. 44939(f), but the flight training provider must verify the status of each pilot to ensure that the endorsee is exempt from TSA's STA requirements. The final rule requires use of the FTSP portal to confirm an endorsee's status, codifying a previous policy decision from 2012 that eliminated a paper-based DoD endorsement verification process. Providers must use the FTSP Portal by matching the endorsee's identification to an official endorsement provided to TSA electronically by the DoD attaché.[47] ASAC also recommended in 2016 that TSA update the regulation to confirm the mandatory use of the FTSP portal to verify endorsee status.

The FTSP portal also serves as the records repository for DoD endorsee letters provided by the attaché. To further ensure compliance, providers must retain proof that they verified identification documents against the documents in the DoD endorsement. Providers may maintain either separate electronic or paper records to

[46] The documents listed in table 2 are consistent with TSA's requirements for validating U.S. citizenship or nationality for all vetting programs. *See https://www.tsa.gov/sites/default/files/twic-and-hazmat-endorsement-threat-assessment-program.pdf.* TSA's list is aligned with similar lists maintained by U.S. immigration authorities, and will be revised as their lists change. *See also* discussion in section II.D.1. Please note that each TSA program may have unique requirements.

[47] Foreign military pilots endorsed by the DoD are registered under the U.S. International Military Education and Training program. The DoD attaché coordination office uses the FTSP Portal to nominate DoD endorsees and to manage DoD attaché account holders' access to the portal. *See* Defense Security Cooperation Agency IMET website at *https://www.dsca.mil/programs/international-military-education-training-imet.*

demonstrate compliance, or may use the portal to store records when this capability becomes available. Section II.B.7 and II.E describe recordkeeping and the FTSP Portal.

c. Determine Whether an Individual Providing ''Side Seat'' Support Is a Candidate (§ 1552.3)

In most cases, non-U.S. citizens who are not endorsed by the DoD are considered candidates who must comply with this regulation. TSA has made a limited exception for certificated individuals who provide ''side-seat support'' to other candidates. ''Side-seat support'' is an aviation industry term that refers to a second pilot that is required for some training events. When a second pilot is required, the candidate or their sponsor (generally their employer) hires an individual with appropriate skill and experience to provide side-seat support for the candidate or student being trained.

Under a limited exception to the definition of ''candidate'' in § 1552.3, the flight training provider does not need to notify TSA of any training events involving a non-U.S. citizen providing side-seat support if the individual providing the support holds a type rating for the aircraft in which the training occurs, or otherwise holds the piloting certificate necessary to operate the aircraft in which the instruction occurs. TSA is providing this limited exception because these individuals already possess the piloting skills being taught, and because these individuals are already vetted by TSA as candidates under this program when they seek recurrent training to retain their FAA rating or certificate under 6 U.S.C. 469(b).

As with other individuals seeking flight training, the flight training provider must determine the individual's U.S. citizenship status. If the individual providing side-seat support is a non-U.S. citizen, the flight training provider must either determine that the individual providing side-seat support holds a type rating for the specific aircraft, or must ensure the individual undergoes an STA and receives a Determination of Eligibility.

2. Determine Whether the Candidate Is Required To Be Vetted Before Receiving Flight Training

Having established that the individual is a candidate (*i.e.,* the individual is a non-U.S. citizen, is not a DoD endorsee, and is not providing side-seat support under the limited exemption provided above), the flight training provider must determine whether the regulation applies to the training the candidate seeks.

a. Activities Considered Flight Training Events (§ 1552.3)

The following flight training events are subject to the rule's requirements:

- Initial pilot certification (whether private, recreational, or a sport pilot certificate), which provides a pilot with basic piloting skills.
- Instrument rating, which enhances a pilot's abilities to pilot an aircraft in bad weather or at night, and enables a pilot to better understand the instruments and physiological experiences of flying without reference to visual cues outside the aircraft.
- Multi-engine rating, which provides a pilot with the skill to operate more complex, faster aircraft.
- Type rating, which is a specific certification a pilot obtains to operate a certain type of aircraft, because this training is required beyond the initial, multi-engine, and instrument certification.
- Recurrent training for type ratings, which is required to maintain or renew a type rating already held by a pilot.

The flight training events subject to the rule's requirements align with the clarification provided in 2004, when TSA exempted training to operate ultralight aircraft, gliders, sail planes, and lighter-than-air aircraft from the requirements of the IFR. These types of aircraft present a minimal threat, and the skills needed to operate them do not translate easily to the skills needed to operate rotary or fixed-wing piloted aircraft. TSA also has determined that training related to operation of unmanned aerial systems does not fall within the requirements of the final rule for the same reasons. This determination is consistent with the statutory requirements, which limit training events to those that occur in an aircraft or simulator, and do not apply to ground training events.[48]

b. Activities Considered Recurrent Training (§ 1552.3)

As part of this rulemaking, TSA is modifying the definition of ''recurrent training'' to apply to those flight training events that pilots need to maintain or renew their type ratings. The requirement specifically applies to pilots certificated (a) under 14 CFR part 61; subpart K of part 91; or parts 121, 125, or 135; or (b) by a foreign entity recognized by a Federal agency of the United States. A candidate may only register for recurrent training if their FTSP account record includes an airman certificate showing they are currently certificated for that aircraft. The modified definition also excludes facets of training that impart new knowledge or demonstrate the pilot's ability to gain or maintain a rating.

This modification to the definition of recurrent training ensures the regulation aligns with clarifications provided by TSA after publication of the IFR. For example, in October 2004, TSA clarified that recurrent training ''[does] not include any flight review, proficiency check, or other check whose purpose is to review rules, maneuvers, or procedures, or to demonstrate a pilot's existing skills,'' and that flight checks ''do not constitute either flight training or recurrent training . . . because, in practice, these checks are mainly used for pilots to demonstrate their skills to an instructor, rather than to gain new skills.'' [49] TSA also released an interpretation listing activities that are not described as recurrent training by the FAA and are generally considered to be checks or tests that ''do not affect the validity of the certificate(s) and/or the qualifications of a type rating.'' [50] As stated above, and discussed more fully in section III, all previously issued clarifications and interpretations are replaced by this final rule.

c. Activities That Do Not Require Notification

Consistent with a recommendation from ASAC, table 3 provides a current list of flight training activities that do not require notification. This list replaces all information previously issued by TSA regarding training activities that do not require notification. If a flight training provider inadvertently notifies TSA of a non-

[48] *See* 49 U.S.C. 44939(e), which defines the term ''training'' as ''training received from an instructor in an aircraft or aircraft simulator and does not include recurrent training, ground training, or demonstration flights for marketing purposes.'' Given this definition, TSA has concluded that the statute does not apply to ground-based courses focused on remote-piloted aircraft incapable of carrying people.

[49] *See* Interpretation of Certain Definitions and Exemptions from Certain Requirements Contained in 49 CFR part 1552, Oct. 19, 2004, Docket No. TSA–2004–19147–0226 *available at https://www.regulations.gov/document?D=TSA-2004-19147-0226.*

[50] TSA Interpretation of ''Recurrent Training'' and Changes to the Security Threat Assessment Process for Recurrent Training, September 13, 2010, *available at fts.tsa.dhs.gov/static-content/ftsp_cat4_10_2010.pdf.*

required event, the provider will need to close out that event.

TABLE 3—TRAINING ACTIVITIES THAT DO NOT REQUIRE NOTIFICATION

Activity	References and guidance
Technology	
Heads Up Display Simulator Qualification	• Flight Simulation Training Device (FSTD) Guidance Bulletin 03–02. • 14 CFR part 60, Flight Simulation Training Device Initial and Continuing Qualification and Use.
Enhanced Flight Vision System FSTD Qualification	• FSTD Guidance Bulletin 03–03. • 14 CFR 61.66, Flight Simulation Training Device Initial and Continuing Qualification and Use.
Category II/III	• 14 CFR 61.67, Category II Pilot Authorization Requirements. • 14 CFR 61.68, Category III Pilot Authorization Requirements.
Required Navigation Performance, Authorization Required	• FAA Advisory Circular (AC) 90–105A. • AC 90–101A Change 1.
Air carrier qualifications	
Line Oriented Flight Training [also called Line Operational Simulation (LOS)].	• FAA Advisory Circular (AC) 120–51E, Crew Resource Management Training.
Operator Specific	• 14 CFR 121.441, Proficiency Checks. • 14 CFR 135.301, Crewmember: Tests and checks, grace provisions; training to accepted standards.
Differences Training	• Flight Standards Information Management System (FAA Handbook) Volume 3. • General Technical Administration; Chapter 19: Training Programs and Airman Qualifications. • Section 9, Safety Assurance System: Differences Training–All Training Categories.
Rejected Takeoff Go/No-Go	• FAA AC 120–62, Takeoff Safety Training Aid.
Commercial Operator Training	• 14 CFR 135.297, Pilot in command: Instrument proficiency check requirements.
Non-U.S. Air Carrier Proficiency Checks • Proficiency Check. • License Proficiency Check. • Operator Proficiency Check.	• FAA Handbook; Volume 12, International Aviation. • Chapter 2: Foreign Air Carriers Operating to the United States and Foreign Operators of U.S.-Registered Aircraft Engaged in Common Carriage Outside the United States. • Section 3, Part 129, Part A: Operations Specifications.
Extended Operations (ETOPS) Polar Operations.	• AC 120–42B, (ETOPS and Polar Operations). • 14 CFR 121.7, Definitions. • 14 CFR 121.162. • AC 135–42, Extended Operations (ETOPS) and Operations in the North Polar Area. • 14 CFR 135.364, Maximum flying time outside the United States.
Right Seat Training	• Dual qualification for captain to be able to fly from the right seat station (does not include training that will lead to a new type rating for the individual in the right seat (example: a pilot who is qualified on both the Boeing 757 and the Boeing 767 may request a related aircraft deviation in accordance with 14 CFR 121.439(f)).
General proficiency checks	
Flight Review and Instrument Currency, Helicopter	• 14 CFR 61.56, Flight Review (for aircraft <12,500 lbs.). • 14 CFR 61.57(a),(b),(c), and (d), Recent Flight Experience: Pilot in command.
Instrument Proficiency Checks	• 14 CFR 61.57(d), Recent Flight Experience: Pilot in command.
Landing Currency	• 14 CFR 61.57, Recent Flight Experience: Pilot in command.
Conversion	• AC 61–143, Conversion Process for Pilot Certificates in Accordance with the Technical Implementation Procedures—Licensing as Part of the Bilateral Aviation Safety Agreement Between the FAA and the European Union Aviation Safety Agency.
Flight training provider	
Examiner Training	• 14 CFR 183.23, Pilot Examiners.
Training Center Instructor Training and Testing (includes instructor serving as trainee).	• 14 CFR 42.53, Training Center Instructor Training and Testing Requirements.
Other safety activities	
Special Airport Qualifications	• 14 CFR 121.445, Pilot in Command Airport Qualification: Special Areas and Airports.

TABLE 3—TRAINING ACTIVITIES THAT DO NOT REQUIRE NOTIFICATION—Continued

Activity	References and guidance
Upset Recover Training	• FAA AC 120–111, Upset Prevention and Recovery Training—with Change.
High Altitude Training	• 14 CFR 61.31(g), Type rating requirements, additional training, and authorization requirements.

Flight training providers must notify TSA about any recurrent flight training events planned for a candidate that do not fall under the exempted events listed in table 3. TSA will publish any updates to this list of training events that do not require notification under § 1552.51 on the FTSP Portal.

3. Notify TSA of Flight Training Events for Candidates (§ 1552.51)

Consistent with the requirements in 49 U.S.C. 44939, flight training providers are required to notify TSA of all proposed and actual flight training events for candidates. Subpart C lays out flight training event notification requirements for flight training providers. The final rule clarifies and consolidates requirements for flight training providers regarding training event management and confirms TSA's present practice of requiring all notifications to occur through the FTSP portal. There are no other changes to the requirements in this subpart.

The final rule permits a flight training provider to schedule a flight training event or events up to the expiration of a candidate's Determination of Eligibility, but the final rule also continues the IFR's requirement for flight training providers to verify a candidate's Determination of Eligibility for *each* flight training event. While a new STA may only be required once every 5 years, this notification is necessary because TSA may revoke a candidate's Determination of Eligibility at any time within the 5-year window that an STA may otherwise be valid. TSA does not inform flight training providers of a change in a candidate's Determination of Eligibility except in response to a notification that the candidate is currently applying for or involved in a flight training event. A provider is not permitted to initiate a new flight training event notification for a candidate whose Determination of Eligibility has expired.

a. Information To Be Included in Notification of a Flight Training Event (§ 1552.51(a))

In keeping with similar requirements under § 1552(a)(2) of the IFR, the flight training provider must submit the following information and supporting documentation to TSA through the FTSP Portal for each notification of a candidate flight training event:

- The candidate's name.
- The rating that the candidate could receive, maintain, or revitalize if the candidate completes the training.
- The location or locations, domestic or international, where training is to occur.
- The estimated start and end dates of training.

To ensure Determinations of Eligibility can be made before the scheduled training, TSA recommends that flight training providers notify TSA no less than 30 days before the estimated start of the flight training event, even for a candidate who may be eligible for expedited processing. Upon completion of the training event, the provider must update the FTSP Portal with the training event's actual start and end dates, and indicate whether the candidate concluded, cancelled, failed to complete, or abandoned the training.

TSA requires this specific information and documentation to properly ensure compliance with the requirements of 49 U.S.C. 44939, and to properly determine whether any candidate may be a risk to aviation or national security. Knowledge of the candidate, the training location, the training dates, and the type of training to be received is essential to assessing risk. The statute does not refer to type ratings, but the flight training industry tends to market and deliver training by piloting skill and by aircraft type, not by aircraft weight. Generally, crew members of aircraft weighing 12,500 pounds or less are not required to have type ratings.

Flight training providers operating with multiple instructors as an air carrier, charter operator, pilot school, training center, or other corporate entity certificated under 14 CFR parts 61, 121, 135, 141, or 142 respectively, do not need to submit multiple flight training event notifications when multiple instructors within its operation participate in the training of one candidate during that candidate's flight training event. However, multiple individual flight instructors with certificates provided under 14 CFR part 61 who operate as a flying group or club that is not separately certificated by the FAA must list all the CFIs operating at its establishment as part of its registration for an FTSP Portal account.

b. Candidate Photograph (§ 1552.51(d))

The flight training provider must take a photograph of the candidate upon the candidate's arrival for each training event. The provider need only take one photo per day. In the case of a multi-day training event, the provider need only submit one photo for the event, not one per day. The provider may take the photograph either at the beginning of ground training or, if the candidate is not involved in any ground training at the provider's training location, when the candidate begins training on the aircraft or aircraft simulator. The provider must upload the photograph to the FTSP Portal no later than 5 business days after the day the candidate arrived for training. A provider may not re-use a previous candidate photograph for a later training event.

When this program was established by DOJ, flight training providers were encouraged, but not required, to maintain photographs of all candidates. The 2004 IFR made the photographs mandatory because submission of a candidate photograph, along with other identification documents (including a valid passport), offers assurance that the candidate is the person described in the identification and immigration documents submitted to TSA. Flight training providers play a critical role in determining whether the person before them is the same person featured in the identity and immigration documents upon which TSA relies for its STAs, and the required photograph ensures that providers make a reasonable effort to confirm a candidate's identity.

c. Notification of an Update or Cancellation (§ 1552.51(g))

The flight training provider must update the following information for each candidate flight training event:

- Actual start and end dates;
- Actual training location(s); and
- Notification whether training was completed or not completed, and the reason(s) why it was not completed.

When a training event is not completed, the provider must submit a brief description of why the training

was not completed, *e.g.,* cancellation by the provider or the candidate, failure of the candidate to meet the required standard, or abandonment of training by the candidate.

d. Expedited Processing (§ 1552.51(f))

A candidate may be eligible for expedited processing of flight training event notification(s), under 49 U.S.C. 44939(d), if more than 5 business days have elapsed since TSA acknowledged receipt of the event notification and the candidate meets one or more of the following criteria:

- Holds an FAA airman certificate and has provided proof of their FAA certification and at least one type rating;
- Holds an airman certification from a foreign entity that is recognized by an agency of the United States and has provided proof of their airman certificate and at least one type rating;
- Is employed by an aircraft operator regulated under 49 CFR part 1544 or foreign air carrier regulated under 49 CFR part 1546 that has a TSA-approved or accepted security program and has provided proof of employment;
- Is an individual who has unescorted access to a secured area of an airport regulated by TSA under 49 CFR part 1542 with a TSA-approved security program under this chapter and has provided proof of this unexpired credential; or
- Is a lawful permanent resident, and has provided proof of that status (see section II.B.5.g for more discussion on this issue).

Section 1552.51(f) of the final rule requires candidates to provide proof of eligibility when they apply for expedited processing. Upon receipt of a complete candidate application that includes appropriate documentation of eligibility for expedited processing, TSA will send an email notification to the candidate's flight training provider that the candidate is eligible for expedited processing. The 5-day waiting period for candidates eligible for expedited processing applies to the initial application for an STA, and to subsequent notifications of flight training events.

4. Deny Flight Training to Candidates Determined To Be a Security Threat and Notify TSA if They Become Aware of a Threat (§§ 1552.3, 1552.7(b), (c), and (d), and 1552.31(e))

If TSA determines that a candidate presents a threat to aviation or national security, TSA notifies both the candidate and the flight training provider that the candidate has been issued a Determination of Ineligibility and may not participate in flight training. If TSA notifies the provider that the candidate's preliminary Determination of Eligibility has been revoked or suspended, the flight training provider must immediately terminate or cancel the candidate's flight training event. The provider must acknowledge through the FTSP Portal the receipt of all TSA communications regarding a candidate's ineligibility, disqualification, or denial of flight training.

Flight training providers conduct security awareness training pursuant to the IFR, which includes training in the general requirements for eligibility under the FTSP program, and a general awareness of threats to aviation and national security deriving from flight training. If a flight training provider believes that a candidate is no longer eligible to receive flight training, TSA encourages the provider to notify TSA and their local FBI office, as such reporting is consistent with the training requirements of 49 U.S.C. 44939(i) and the requirements of § 1552.9 and as described in section II.B.5. The provider is encouraged to notify TSA of any new alleged disqualifying criminal offenses, as identified under this chapter, or of any changes to an individual's permission to remain in the United States that may affect a candidate's Determination of Eligibility.

5. Designate a Security Coordinator (§ 1552.9)

TSA is committed to enhancing information sharing with all of our industry stakeholders and partners. The final rule aligns the FTSP with other TSA regulations by requiring that all flight training providers designate a Security Coordinator.[51] In keeping with the requirements of the statutes authorizing the FTSP program, a Security Coordinator is necessary to ensure all flight training providers ''conduct a security awareness program for flight school employees to increase their awareness of suspicious circumstances and activities of individuals enrolling in or attending flight school.'' [52] Security Coordinators are a vital part of transportation security, providing TSA and other government agencies with an identified point of contact with access to company leadership and knowledge of the flight training provider's operations, in the event it is necessary to convey extremely time-sensitive information about threats or security procedures to a provider, particularly in situations requiring frequent information updates. The Security Coordinator provides TSA with a designated contact in a position to understand security problems; immediately raise issues with, or transmit information to, corporate or system leadership; and recognize when emergency response action is appropriate.

This final rule requires the Security Coordinator to be accessible to TSA 24 hours per day, 7 days per week, enabling TSA to contact any flight training provider quickly if TSA or another Federal agency should identify a security threat. TSA may contact Security Coordinators by email or telephone, or in person if electronic communications were not promptly acknowledged. TSA recommends that the flight training provider designate at least one alternate for the Security Coordinator, if staffing permits, to ensure the required accessibility is maintained. If the flight training provider designates any alternates, the provider must submit to TSA the same information for the alternates as for the primary Security Coordinator.

This requirement applies to all flight training providers, including those who do not provide flight training to non-U.S. citizens. This applicability reflects that any flight training provider is in a position to identify critical threat information that needs to be provided to the FBI and TSA related to aviation or other national security concerns. Equally important, TSA may need to provide flight training providers with information about an emerging or imminent threat.

As required by § 1552.9, the Security Coordinator acts as a single point of contact and facilitates interactions between TSA and the flight training provider. The final rule does not require the Security Coordinator or alternate(s) to be a dedicated position staffed by an individual who has no other primary or additional duties, *i.e.,* the Security Coordinator may be an existing employee and may perform other duties. For example, if a CFI is a one-person flight training operation, the CFI can be the Security Coordinator. A larger flight training provider operation may designate a Security Coordinator and alternate Security Coordinators, as necessary, to maintain the required level of availability. The final rule does not require the Security Coordinator to be certificated by the FAA. For example, a business owner or office manager may act as the Security Coordinator. A Security Coordinator may also be the administrator of the provider's FTSP Portal account.

[51] *See* 49 CFR 1542.3 (airports); 1544.233 (aircraft operators); 1548.13 (indirect air carriers); 1549.107 (certified cargo screening facilities); and 1570.201 (surface transportation).

[52] 44 U.S.C. 44939(i).

The Security Coordinator's responsibilities include coordinating with law enforcement and emergency response authorities as needed. Although the rule encourages flight training providers to notify TSA of security incidents, if there is an immediate threat, the first priority is to notify and work directly with first responders, such as the FBI or other appropriate authority, as soon as a provider becomes aware of suspected criminal or terroristic concerns, or other suspicious behavior. After notifying the FBI or other Federal, State, Tribal, or local law enforcement agencies, as appropriate, TSA encourages the provider's Security Coordinator to notify TSA.

Threats to aviation security continuously evolve, and incidents may occur. For this reason, the flight training provider's Security Coordinator should actively review TSA updates and security advisories and ensure the provider incorporates relevant new information into their security awareness training.

Flight training providers must designate a Security Coordinator no later than 6 months after the publication date of this final rule. The provider must submit the following information for the Security Coordinator and any designated alternate(s): name(s), title(s), telephone number(s), and email address(es). Flight training providers must keep this contact information on Security Coordinators current, ensuring that TSA is notified when a Security Coordinator leaves the flight training provider's employment and a new coordinator is designated. Flight training providers must provide any change in this information to TSA within 7 days of the change taking effect. The information collection burden associated with providing this information to TSA is the primary cost of this additional requirement.

The burdens imposed on flight training providers to designate a Security Coordinator are minimal, as most providers (including all individual instructors) are likely to designate the same person who already appears as the designated point of contact on the provider's FTSP profile with TSA. All burdens associated with the designation of a Security Coordinator are consistent with the requirements to undergo an STA. When TSA reopened the comment period for the IFR in 2018, the agency sought comment on whether flight training providers and their employees should be required to undergo an STA. 83 FR 23239. Many commenters were in favor of imposing such a requirement. In order to maximize the regulatory relief of the final rule, however, TSA elected to not impose a new requirement for STAs, as the less-burdensome requirement to designate a Security Coordinator also provides a meaningful security improvement.

6. Provide Security Awareness Training to Employees (§ 1552.13)

All ''flight training provider employees,'' as defined in § 1552.3, are also positioned to identify potential threats to security, including information they may become aware of while providing flight training, administering tests, or processing verification documents. TSA is required by 49 U.S.C. 44939(i) to ensure that all flight training providers conduct security awareness training programs that provide employees the awareness and tools necessary to identify individuals who may have malicious intent.

The rule requires flight training providers to provide initial and refresher security awareness training to their employees. As with the Security Coordinator requirements in § 1552.9, these requirements apply to all flight training providers, not just those who train candidates. Flight training providers registered with TSA and their covered employees must complete their initial security awareness training within 60 days of being hired. Thereafter, providers and their employees must complete refresher training at least every 2 years.[53] The final rule uses the term ''refresher training'' rather than the IFR's term ''recurrent security awareness training'' to avoid confusion with the recurrent training required to maintain an aircraft type rating.

The security awareness training program must instruct flight training provider employees on how to recognize suspicious circumstances and suspicious activities that may be exhibited by individuals enrolling in flight training, attending flight training, or employed by flight training providers. The training must address each of the elements identified in § 1552.13 as applied to the unique circumstances associated with their operations. Flight training providers should supplement and update security awareness training as TSA or other law enforcement or intelligence resources transmit new threat information or any changes to requirements applicable to the flight training provider, including changes to security measures for airports, aircraft operators, or foreign air carriers applicable to the flight training provider's operations.

The scope of the training requirements includes a new factor, in § 1552.13(b)(3)(iii), which recognizes the unique position of flight training providers and their employees to identify a potential threat to aviation security: non-U.S. citizens who are or have received flight training from someone not participating in the FTSP, but providing the type of training covered by this rule. This type of information is a security concern that flight training providers are encouraged to report to TSA under § 1552.9. Flight instructors were always in a position to detect such events, and the security awareness training required by the statute and imposed under the IFR was intended to encourage the reporting of such events. In the 19 years of the FTSP program operating under TSA, many providers have come forward to allege that another provider may be training a non-U.S. citizen who has not been vetted by TSA, or that a U.S. citizen was not required to provide documentation exempting the individual from an STA. Incorporating this new factor only makes the training more explicit, and codifies existing practice. In 2006, TSA granted an exemption from security awareness training requirements for aircraft operators who conduct flight training solely for their own employees, because TSA already required aircraft operators to conduct similar training under 49 CFR parts 1544 or 1546. This final rule incorporates this exemption by allowing an aircraft operator operating under a security program approved by TSA under 49 CFR parts 1544 or 1546 to comply with the security awareness training requirements through its programs under those parts, if all of the following conditions and limitations are met:

- The aircraft operator must not offer or conduct flight training to the public or to employees of other aircraft operators.
- The aircraft operator must maintain or continue to maintain training records in accordance with the aircraft operator's approved security program and must make those records available to TSA and FAA inspectors upon request.
- An aircraft operator who implements this exemption must not use the FTSP Portal to record security awareness training.

[53] In practice, TSA allows a grace period of 30 days to allow for scheduling flexibility. For example, an employee who completed initial security awareness training on April 1, 2019, must complete a refresher course no later than May 1, 2021. This provision in the final rule allows flight training providers latitude to consolidate security awareness training for their employees.

Although the requirements under § 1552.13 also apply to those persons who engage in lease agreements for flight training, the security training requirements do not apply to their employees who never come into contact with any candidates or records related to compliance with the FTSP. In general, individuals who provide side-seat support are not considered flight training provider employees and do not need to complete security awareness training unless the flight training provider employs them. For example, individuals who are supplied by the candidate or student's sponsor in order to provide side-seat support are not considered flight school employees.

The final rule also allows a provider to adopt and tailor industry-developed online security awareness training programs to the provider's needs as long as they cover the topics identified in the rule. In addition, TSA publishes guidelines for a security awareness training program in the document ''Security Guidelines for General Aviation Airport Operators and Users.'' [54]

7. Maintain Records (§ 1552.15)

In accordance with § 1552.15(a), flight training providers required to comply with this rule must retain the following records for at least 5 years from the date the record is created:

- Employee records regarding security awareness training. Flight training providers must retain records for former employees for at least 1 year after the employee has left their employment. As provided in § 1552.15 (b)(3), flight training provider employees or former employees may request their security awareness training records from their current or previous employer as evidence of previous or current security awareness training. Providers must make those records available to the employee or former employee upon request and should provide the record(s) in a timely manner. Records may be provided in hard copy or electronically.
- Candidate records demonstrating flight training eligibility, as required in § 1552.15(c).
- Records documenting the flight training provider's verification of a student's U.S. citizenship, as required in § 1552.15(c). Providers also may meet this requirement by placing a statement in provider and student logbooks in accordance with § 1552.15(c)(2).
- DoD endorsement records demonstrating that the flight training provider has verified the endorsee's identity, as required in § 1552.7(a)(2).
- Provider and contractor records concerning leasing agreements. Section 1552.15(d) clarifies requirements for flight training providers and contractors to maintain records of their flight training lease agreements. The flight training provider is responsible for documenting leasing agreements used in flight training, unless that provider cannot register with TSA, in which case, the lessor of the simulator must register with TSA as a provider. Flight training providers must demonstrate compliance with this requirement no later than 6 months after the publication of this final rule.

To ensure compliance with this regulation, TSA may review a provider's records, whether these records are stored on the FTSP Portal or maintained physically or electronically by the provider (such as documentation that a student is a U.S. citizen or otherwise not subject to the vetting requirements before receiving flight training). Flight training providers not in compliance with recordkeeping requirements are subject to civil penalties. TSA publishes its Enforcement Sanction Guidance Policy on its website at *www.tsa.gov.*

Providers are not required to maintain physical records if they have their own electronic system for this purpose. TSA is, however, also developing a recordkeeping capability associated with the FTSP Portal to allow flight training providers the option to upload and store their compliance records through their FTSP account. Providers will be notified when this option becomes available. Section E provides more information on the FTSP Portal.

C. What must a candidate do in order to comply with the rule and receive flight training?

The final rule continues to require an STA and Determination of Eligibility for all non-U.S. citizens, except DoD endorsees, who seek either flight training in the United States or an FAA certification abroad, as provided in § 1552.31. Candidates must use the FTSP Portal to apply for the STA and pay the appropriate fee. In performing the STA, TSA assesses the candidate's biographic information, identity documentation, and biometric information (fingerprints) against terrorism risk, criminal history, and immigration datasets. Candidates are responsible for keeping their FTSP Portal account information current. Subsections 1 and 2 below describe the requirements in greater detail.

1. Submit Information Sufficient for TSA To Conduct a Security Threat Assessment (§ 1552.31)

Candidates must submit information to TSA sufficient for TSA to conduct an STA. To reduce the burden to candidates, the final rule has limited the information TSA collects to biographic elements identified in table 4, which often aligns with the type of information the candidate provides to obtain a U.S. visa.[55] A candidate who does not have a passport, such as an asylee or a refugee, must produce other government-issued documentation, whether from their home country or from the United States, to positively identify who they are. Documentation must include an issue date and an expiration date (if appropriate), such as on a U.S. driver's license or U.S. employment authorization document. TSA collects gender information in coordination and compliance with the U.S. DOJ. TSA no longer collects candidate height, weight, eye color, or hair color. A candidate need not obtain an immigrant or nonimmigrant document from the United States in order to participate in training outside the United States, but a candidate must present any immigrant or nonimmigrant documents previously issued to the candidate by the United States, even if the candidate now seeks training at a location outside the United States. Many candidates have been to the United States before, and some applicants have previously been denied a U.S. visa. TSA considers a candidate's prior interactions with U.S. immigration agencies to be relevant information when determining whether a candidate presents a risk to aviation or national security. The information and documents listed in table 4 are for illustrative purposes only, and may be subject to change. A complete list of acceptable documents will be maintained at *www.tsa.gov.*

[54] A copy of these guidelines is available at *https://www.tsa.gov/for-industry/general-aviation* under ''GA Security Guidelines'' or by contacting *FTSP.Help@tsa.dhs.gov.*

[55] *See* DOS Online Nonimmigrant Visa Application (DS–160) at *https://ceac.state.gov/genniv/.*

TABLE 4—INFORMATION SUBMITTED BY CANDIDATES TO TSA

Identification Information	
Name	The candidate's official name as it appears on their passport or other acceptable documentation. Any other name variations from the candidate's passport (or other acceptable document) name that appear on other documents provided by the candidate. Any other aliases used that are different from the documentation or may not be obvious from documents provided, such as: • Birth name: the name as it appears on the candidate's birth certificate. • Maiden or premarital name: the name used prior to marrying. • Americanized name: name that an individual may have adopted as an Anglicization to facilitate the spelling or pronunciation by English speakers. • Legal name changes: legally changed name or names used by the individual one or more times in their life. • Previous legal names even if no longer used. • Nickname: a familiar name used in lieu of the person's official name, such as: Rick for Richard, Betty for Elizabeth, Fred for Fahad, Jenni for Jennifer, *etc.*
Gender	Female/woman. Male/man. another or unspecified gender identity.
Date(s) of birth	The date of birth listed on the candidate's passport. If another date is listed on any document supplied, the candidate may be required to provide an explanation.
Foreign Citizenship	Citizenship information to include: • Birth Country • Foreign Naturalization status, from the date of naturalization to present. • Whether dual or multi citizenship (include any and all citizenships held currently or in the past). • Historical data (any citizenship(s) that has been modified from a previous nation state to a new nation state; for example, a citizen from the former Socialist Federal Republic of Yugoslavia is now from either Bosnia-Herzegovina, Croatia, Macedonia, Montenegro, Serbia, or Slovenia). • Renunciation of citizenship.
Social Security Number (if issued by the U.S. Government).	Social Security Number (if issued by the U.S. Government). Most candidates will not have a social security number and it is not required. Providing a social security number is voluntary and may in certain circumstances facilitate the completion of the STA.
Document images and information	
Passport information (if applicable)	Passport number(s); Date issued/expiration date; and Extension date and image, if applicable.
Documents sufficient to demonstrate permission to remain in the United States during all proposed flight training events.	One or more documents that may include a Form I–94, U.S. lawful permanent resident card, U.S. employment authorization document, refugee documentation, asylum seeker documentation, parolee documentation, or authorization documents under Deferred Action for Childhood Arrivals. Documentation provided must include: • Document number(s); • Date issued and/or expiration date (if any); and • Extension date and image, if applicable. *Note:* The following documents do not demonstrate an extension of permission to remain in the United States: • Appointment confirmation for biometric submission. • Appointment confirmation for interview. • Electronic System for Travel Authorization documentation.
Airman certificate information	All airman certificate information and images, current or expired (if available), that may demonstrate their eligibility for training or their eligibility for expedited processing. Certificate information must include all document number(s), issuance date(s) and rating(s).
Physical address information	All residential addresses for the past 5 years and indication whether each address provided is current or historical. Any gap in residence of 30 days or more must be explained. The application also must include any physical or postal addresses that appear on the document images provided. Address information provided must include the following: • Start and end date(s) for each address. • Street address and apartment or room number, if applicable. • City, state, province, jurisdiction, and country. • Zip code/postal code. • Phone number(s). A post office box is not acceptable as a residential address and cannot be used to cover a 30-day gap.
Email address information (TSA requires every candidate to provide an email address; this email address will be the primary means of communication between TSA and the candidate).	Email information must be unique to the individual and match the email associated with the candidate's account on the FTSP Portal. If a candidate's email information changes, it is the candidate's responsibility to update that information on the FTSP Portal to ensure the candidate receives TSA notifications.
Employment information	The candidate must provide information regarding their current employment status. If currently unemployed, candidates may select "unemployed" and need not fill out employer information. TSA requires the following information in order to contact a candidate's current employer to verify that candidate's eligibility for expedited processing: • Occupation. • Employer or company name.

TABLE 4—INFORMATION SUBMITTED BY CANDIDATES TO TSA—Continued

	• Contact name (provide a person's contact information who can confirm occupation/employer, usually a supervisor). • Employer phone number (if any). • Employer email (if any). • Employer website (if any).

TSA will initiate the STA after the agency receives all of the information required under this section, as well as the candidate's fingerprints and the fee. The Candidate Guide on the FTSP Portal provides additional information on completing the STA application.

Sometimes an individual will convert an airman certificate from another civil aviation authority to an FAA-certification. In general, this conversion of an airman certificate is not subject to the requirements under § 1552.51. If, however, the individual converting the FAA-certification wishes to pursue additional training or recurrent training on that certificate, that individual may be a candidate under this rule who must enroll with TSA and apply for an STA.[56]

Consistent with current practice under the IFR, § 1552.31(e) provides procedures for candidates TSA identified as ineligible to present additional information to correct their records if they believe such information would materially affect TSA's decision. The IFR did not provide redress procedures for candidates who are declared ineligible by TSA, but TSA has always allowed candidates an opportunity to correct their records. The procedures to correct the record are described in § 1552.31(e).

2. Pay Fee for the Security Threat Assessment

a. Fees (§ 1552.39)

The final rule requires a candidate to submit a fee the first time that candidate requests an STA and with each STA renewal, as provided in § 1552.39. The fee is a consolidated fee that allows a candidate to train as often as they wish over the 5-year period of their valid Determination of Eligibility, without additional cost.

The candidate generally will pay one fee to cover the STA for all training events up to 5 years. Table 7 provides the fees and amounts required as of the publication date for this final rule.

Candidates who have completed an STA that TSA deems is comparable to the STA required for FTSP candidates may be eligible for a reduced fee, collected to cover the cost of confirming their comparable STA. *See* § 1552.37.

As noted above, this change from an event-based STA to a time-based STA provides significant cost-savings and addresses an ASAC recommendation to reduce the frequency that a candidate must undergo an STA. This change will result in time and cost savings for candidates. Over the initial 18 years of the program, very few candidates paid for only one or two STAs. Most candidates paid for 3 to 12 combined STAs and training event notifications over a 5-year period, costing them a combined total of $350 to $840.[57]

Payments are submitted to TSA via *Pay.gov,* the U.S. Government's electronic fee payment portal. The FTSP Portal provides all necessary instructions and a link to *Pay.gov* for payment. Automated processing of the STA is initiated as soon as the candidate pays the fee. TSA is not authorized to refund fees once the STA is initiated because TSA incurs the costs of vetting upon receiving verification from *Pay.gov* that a fee was paid. Under § 1552.5 of the IFR, TSA had allowed a refund only when an individual submitted a fee in error, for example, submitting a fee when one was not required.[58] This provision was intended to account for U.S. Citizens (who are not required to undergo an STA) who submitted an application by mistake, or if a candidate submitted multiple applications for the same training event. TSA believes that the online enrollment process would identify and preclude these types of mistakes before an individual paid any fee. Though mistakes are unlikely, TSA will retain the limited refund provision from the IFR.

The FTSP fee structure reflects current and estimated costs for processing the candidate's application.[59] The consolidated fee includes the fee the FBI charges to process fingerprints, which TSA collects and forwards to the FBI. If the FBI fee changes, TSA will collect and transmit the revised fee to the FBI. TSA reviews fees for this program every 2 years and will publish any changes with a notice published in the **Federal Register**.

b. Reduced Fee for Comparable STAs (§ 1552.37)

TSA may determine that another TSA-conducted STA or an STA conducted by another governmental agency is comparable to the Level 3 STA required under this rule, as discussed further in section II.D. In these cases, the candidate would not be required to undergo, and TSA would not have to conduct, a duplicate STA in its entirety. The candidate would pay only for the services TSA performs to verify the STA and determine eligibility, resulting in a reduced fee. Note that some STAs governed by other regulations may have unique restrictions, requirements, or privileges. A candidate who receives a comparable STA determination under this regulation is not entitled to additional privileges beyond the original STA. TSA will review the comparable STA of any candidate if new information indicates the candidate may pose or poses a threat to aviation or aviation security.

If TSA confirms completion of a comparable STA under § 1552.37, TSA assesses a reduced STA fee.[60] A candidate with a comparable STA must still provide the biographic and biometric information required under § 1552.31. The following is the current list of comparable STAs:

- TSA's PreCheck® program;[61]
- TSA's TWIC® program;[62]
- TSA's HME program;[63]

[56] The FAA creates advisory circulars memorializing agreements with other civil aviation authorities, generally concerning the conversion process for pilot certificates. Conversion agreements with other civil aviation authorities are managed by FAA's General Aviation and Commercial Division, AFS 800. *See https://www.faa.gov/about/office_org/headquarters_offices/avs/offices/afx/afs/afs800/.*

[57] This statement is based on an August 2019 TSA-analysis of the latest 5-year window for 216 candidates who paid for an STA on August 15, 2014. Based on this analysis, TSA determined that 20 of the candidates paid less than $220 and 15 paid $840 or more.

[58] *See* 69 FR at 56334.

[59] *See* fee study and RIA in the docket for this rulemaking for more information on how the fees are developed.

[60] *Id.*

[61] *See https://www.tsa.gov/precheck. See also* 78 FR 72922 (Dec. 4, 2013).

[62] *See https://www.tsa.gov/for-industry/twic. See also* 49 CFR part 1572.

[63] *See https://www.tsa.gov/for-industry/hazmat-endorsement. See also* 49 CFR part 1572.

• DHS Trusted Traveler programs including Global Entry, SENTRI, and NEXUS.[64]

TSA considers each of the threat assessment programs listed above to be a ''Level 3'' STA, which is discussed in detail below. For the purposes of the FTSP, TSA will only consider a Level 3 STA to be a comparable STA. TSA will publish any changes to the list of comparable STAs on the FTSP Portal.

D. How does TSA determine whether a candidate is eligible for flight training?

TSA determines a candidate's eligibility by conducting an STA, which is designed to determine whether a candidate poses a threat to transportation or national security. Individuals who are issued a Determination of Eligibility following an STA may be granted access to transportation infrastructure or assets, or may be granted other privileges and credentials, including access to flight training. Both the IFR and the final rule require an STA that consists of one or more checks against immigration records, terrorist watchlists (known as an ''intelligence'' check), and criminal history records, as well as other data sources. An STA with these checks is referred to as a ''Level 3 STA.''

1. Immigration Check (§ 1552.35)

The final rule specifies that all flight training students who are not U.S. citizens, U.S. nationals, or foreign pilots endorsed by the DoD must undergo an immigration check as part of the STA process. The immigration check for a Level 3 STA verifies that the individual is lawfully admitted for permanent residence; a refugee admitted under 8 U.S.C. 1157; granted asylum under 8 U.S.C. 1158; in lawful nonimmigrant status; paroled into the United States under 8 U.S.C. 1182(d)(5); or otherwise authorized to be in or be employed in the United States. A candidate who is not authorized to be in the United States under one of these categories is not eligible for flight training in the United States. TSA also considers a candidate's history with U.S. immigration services, such as violations of U.S. immigration laws or regulations, to be a factor in determining a candidate's risk to aviation or national security, regardless of where a candidate may seek flight training.

TSA conducts an immigration check using CBP's ATS, which allows TSA to query many different databases and systems that may include SAVE, the Advanced Passenger Information System, ADIS, Consular Consolidated Database, the Treasury Enforcement Communications System, used by CBP officers at the border to assist with screening and determinations regarding admissibility of arriving persons, and the Student and Exchange Visitor Information System (SEVIS). Candidates who appear to be ineligible following an immigration check for a Level 3 STA are referred to an immigration authority or liaison to assist in determining whether the candidate is eligible to participate in flight training. TSA also compares the information a candidate presents with their STA application to the information in the above databases. The documents provided by the candidate help TSA adjudicators narrow mixed results, de-conflict contradictory info, and save time during the adjudication process. For instance, an applicant may have a document that is more detailed than what is in the database.

TSA may suspend a Determination of Eligibility if immigration authorities inform TSA that the candidate does not have permission to remain in the United States. In this instance, TSA will advise the provider to cease training the candidate, because a candidate that no longer passes the immigration check for a Level 3 STA is considered by TSA to be unlawfully present, and to be a risk to national security.

Unless otherwise directed by the U.S. Department of State (DOS), a candidate's Determination of Eligibility will expire when their passport or other document(s) establishing eligibility for flight training expires, is revoked, or suspended, even if the Determination of Eligibility was originally issued for a longer period of time. The candidate may submit additional documents to correct or update their record and possibly extend or restore their Determination of Eligibility. Table 4 provides a list of relevant documents, and § 1552.31(e) describes redress provisions.

TSA relies upon valid U.S. Government identity document(s) with issue and expiration dates when conducting immigration checks. TSA is not an immigration authority and relies on data and guidance from immigration authorities, such as DOS, USCIS, ICE, and CBP, during TSA's review of information, and when resolving any immigration-related questions or concerns that arise.

2. Intelligence Check (§ 1552.31(c))

The intelligence check for a Level 3 STA reviews biographic information, documents, and databases to confirm an individual's identity, and searches government and non-government databases, including terrorist watchlists, criminal wants and warrants, Interpol, and other domestic and international sources, to determine whether an individual may pose or poses a threat to transportation or national security. TSA conducts the intelligence check ''recurrently'' so that each time a watchlist changes, TSA again runs the vetted individuals against the revised list. Thus, if a candidate is initially issued a Determination of Eligibility, but is later placed on a watchlist, TSA can quickly take appropriate action to minimize the threat. If TSA determines that the candidate presents a threat to aviation or national security, that individual is not eligible for flight training. Under § 1552.31(e), flight training candidates may request that TSA reconsider an ineligibility determination only if the determination was made on the basis of incorrect records. TSA provides each candidate with a summary of the records upon which TSA based its decision, to the extent feasible in light of national security and law enforcement interests.

3. Criminal History Records Check (§ 1552.31(c))

The CHRC conducted under this rule is similar to the CHRC TSA conducts for other Level 3 STAs such as the TSA PreCheck® program (a DHS trusted traveler program), and the TWIC® and HME programs under 49 CFR part 1572. TSA submits the biometrics (fingerprints) collected for STAs that include a CHRC to the Automated Biometrics Identification System (IDENT), which is operated by the DHS Office of Biometric Identity Management. IDENT is the departmental repository for biometrics collected by DHS agencies and provides additional information for TSA to use as part of the vetting process.

4. Rap Back

The FTSP will use the FBI's Noncriminal Justice Rap Back service[65] for individuals required to undergo a CHRC. Rap Back allows TSA to move from an event-based STA requirement to a time-based STA. TSA has implemented Rap Back for other vetting programs. The Rap Back service provides a continuous criminal vetting capability that enhances security significantly by providing TSA with timely criminal history information rather than finding it when the next STA is conducted.

[64] *See https://www.dhs.gov/trusted-traveler-programs.*

[65] For more information, *see* the FBI's Next Generation website at *https://www.fbi.gov/services/cjis/fingerprints-and-other-biometrics/ngi.*

Rap Back enables TSA to receive new criminal history that occurs after the initial submission of fingerprints. Without Rap Back, TSA must submit new fingerprints and fees each time it seeks to obtain a new CHRC on an individual. With Rap Back, TSA can determine that an individual who initially passed the CHRC and received a Determination of Eligibility has become ineligible due to a recent disqualifying criminal offense. Implementation of Rap Back does not affect the type or amount of information TSA must collect from each individual at enrollment.

E. How do flight training providers and candidates provide the required information to TSA?

1. Use the FTSP Portal To Submit Documents (§ 1552.17)

For nearly 2 decades, flight training providers and candidates have used the FTSP Portal to manage STA applications and notify TSA of flight training events. The final rule makes the use of the FTSP Portal mandatory for candidates to submit STA applications, for flight training providers to submit their flight training event notifications to TSA, and for U.S. DoD attachés to submit DoD endorsements. The final rule also removes previously permitted procedures for faxing documents. *See* § 1552.17. Under the final rule, flight training providers must use the FTSP Portal to submit all flight training event notifications to TSA on behalf of candidates. TSA accepts no other method to be notified of flight training events.

2. Use the FTSP Portal for Recordkeeping (§ 1552.15)

As previously described in section II.B.7, TSA will allow flight training providers to store records required by § 1552.15 on the FTSP Portal, including records containing personally identifiable information, to facilitate compliance with the regulation.

When this capability is made available, all flight training providers will be able to use the FTSP Portal for recordkeeping purposes. For example, a provider that does not train candidates may use the FTSP Portal to maintain records of compliance with citizenship verification requirements, security awareness training, etc. These providers may, of course, continue to use their own recordkeeping systems. TSA will encourage providers to take advantage of this capability, as the maintenance of all required records in one place facilitates audits and inspections for all parties. For example, many recordkeeping violations of the requirements in this part resulted from the dispersal of records across the enterprise, or from inconsistent recordkeeping practices. Consolidating records on the FTSP Portal will address these issues.

In addition, both Student and Exchange Visitor Program (SEVP)-certified and non-SEVP-certified providers will be able to upload their lease agreements to the FTSP Portal. Table 5 compares the required to permissive use of the FTSP Portal for flight training providers.

TABLE 5—COMPARISON OF REQUIRED AND OPTIONAL USE OF THE FTSP PORTAL

Use of FTSP Portal *required* for the following purposes	Use of FTSP Portal *encouraged* for the following purposes
• Designate a Security Coordinator. • Verify that a student, candidate, or DoD endorsee is eligible to participate in flight training. • Ensure each candidate holds a Determination of Eligibility. • Notify TSA of all non-U.S. citizen flight training events. • Notify TSA when a candidate appears to no longer be lawfully present or otherwise no longer permitted to remain in the United States, or has a disqualifying criminal offense. • Document each student and candidate presents valid ID at each flight training event. • Upload photos of candidates and DoD endorsees within 5 days from when they arrive for training. • Update FTSP Portal records concerning candidate completion or non-completion of training. • Acknowledge receipt of TSA notifications.	• Record compliance-related activities in lieu of maintaining physical or electronic records onsite. • Record employee initial and biennial security awareness training events. • Document aircraft simulator lease agreements. • Record verification of student, candidate, or DoD endorsee eligibility. • Support TSA, FAA, DoD, and SEVP inspections and audits of compliance records.

The FTSP Portal also is available to other U.S. Government agencies who may request access for the following purposes:

• FAA Airmen Certification Office and Flight Standards personnel who confirm airman and flight training provider certifications, facilitate the notification of disqualifying actions or offenses, and support FAA inspections and audits of flight training providers.

• DoD attachés who initiate and distribute endorsement notifications to specific flight training providers.

• DHS employees authorized to support inspections and audits of flight training providers' facilities and records, facilitate the sharing of candidate training activities, and determine a candidate's status with Federal immigration authorities.

3. Use the FTSP Portal To Create and Access Accounts (§ 1552.17)

In order to comply with the regulation, candidates and flight training providers must create their own accounts on the FTSP Portal [66] and submit all required information and documentation through their FTSP Portal accounts. Each candidate uses the FTSP Portal to create an account; enter biographic and biometric information; upload digital copies of identity documents, visas, and other documents that establish eligibility for FTSP; apply for an STA; access the link to pay the fee through an account on *Pay.gov;* and associate their account with their flight training provider or providers.

Flight training providers covered by the final rule must establish an account on the FTSP Portal and identify only one person as the administrator for their FTSP Portal account. This person may be the Security Coordinator or another employee. Each provider must identify at least one FAA instruction certification to establish an online provider account with TSA. Flight training provider accounts are verified with FAA through certificate(s) granted under 14 CFR parts 61, 121, 135, 141, or 142. A provider may identify additional non-administrator agents on their account if desired.

[66] Currently accessible at *https://www.fts.tsa.dhs.gov.*

TSA may suspend any user's access to the FTSP Portal at any time. The decision to suspend a user's FTSP Portal account or a user's access to the FTSP Portal is within TSA's sole discretion, but TSA would not do so without just cause. Examples of such causes include suspicion of fraud, persistent noncompliance with one or more requirements of this part, or reasonable suspicion that the account holder poses a threat to aviation or national security. TSA assumes responsibility for the security of any data uploaded to the FTSP Portal and will partner with flight training providers in the retention and removal of records according to National Archives and Records Administration (NARA) and Privacy Act standards.[67]

4. Use the FTSP Portal To Access FTSP Guidance (§ 1552.17)

The FTSP Portal is the primary source for obtaining information about FTSP requirements. The portal offers detailed guidance on FTSP processes and requirements, including candidate, provider, and other user guides, and Frequently Asked Questions.

Through the FTSP Portal, TSA is reducing its carbon footprint by providing for all documentation and correspondence between TSA and the regulated party to occur through the portal and email; no hard-copy correspondence is required or generated. Email to *FTSP.Help@tsa.dhs.gov* is the most effective way to communicate with or query the FTSP. TSA generally responds to emails within 5 to 7 business days.

F. Compliance Guidelines

The flow charts in Figures 1 and 2 summarize compliance requirements for candidates (Figure 1) and flight training providers (Figure 2).

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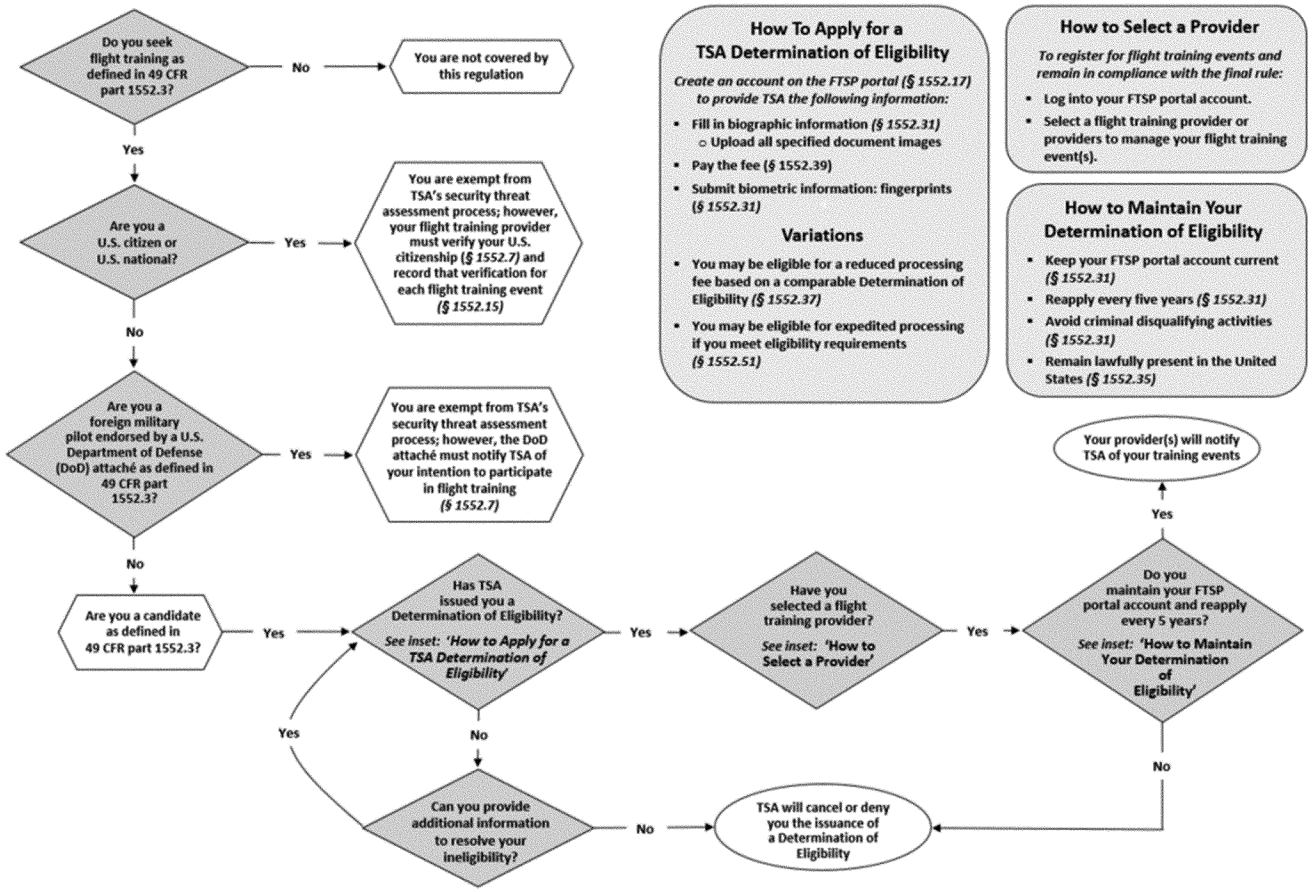
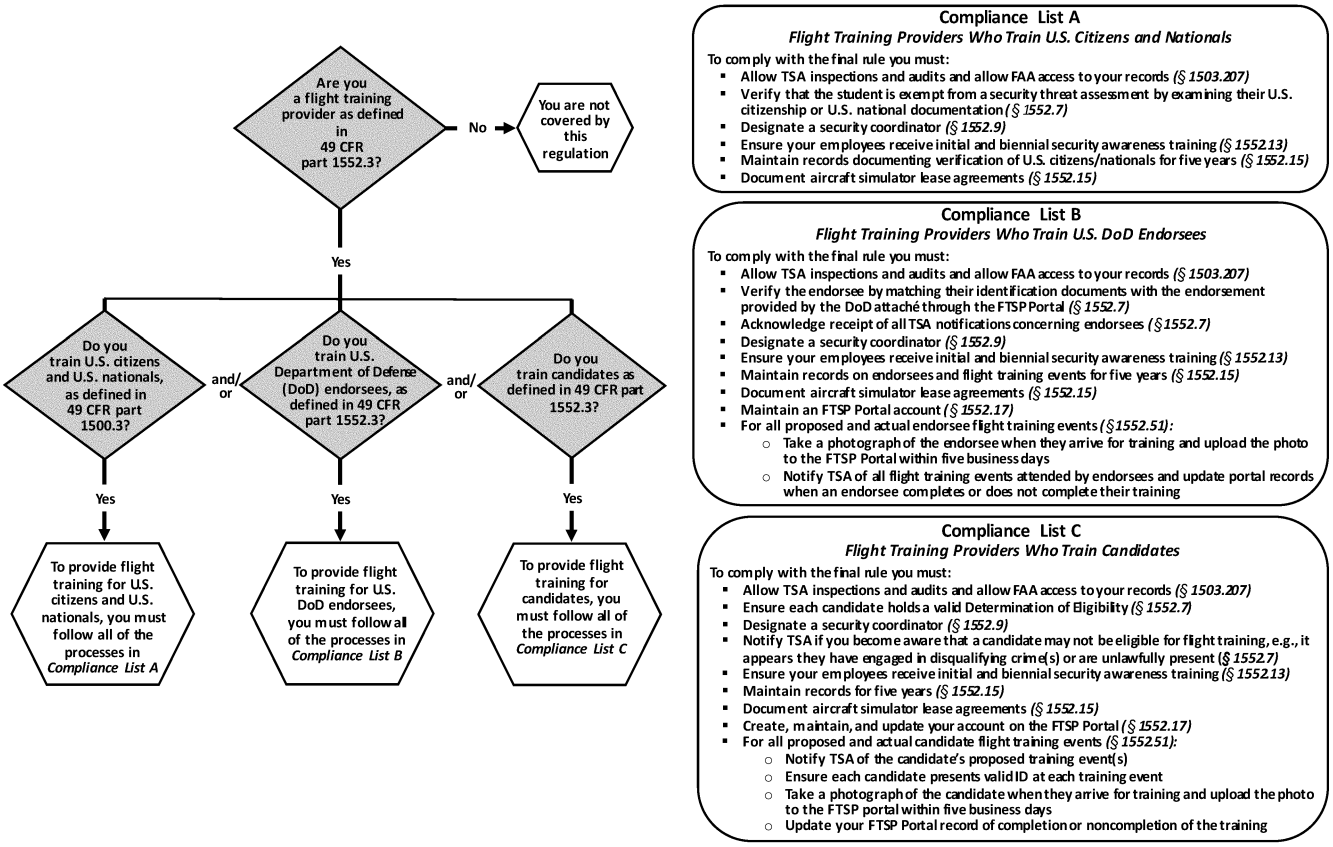
FIGURE 1. FLIGHT TRAINING CANDIDATE COMPLIANCE GUIDELINES



[67] Please *see supra* note 32.

FIGURE 2. FLIGHT TRAINING PROVIDER COMPLIANCE GUIDELINES



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G. What happens if a flight training provider or candidate fails to comply?

1. False Statements (§ 1552.19)

Under § 1552.19, neither the flight training provider nor the candidate may make a willful false statement or misrepresentation or omit a material fact when submitting the information required under this part. TSA considers online confirmation and attestation by the flight training provider or the candidate to be sufficient certification that the information provided is neither fraudulent nor false. The final rule clarifies that this prohibition against false statements under the IFR applies to both candidates and flight training providers.

Individuals subject to this rule may be subject to enforcement actions under 49 CFR 1540.103 for fraud and intentional falsification of records, or under § 1540.105, which applies to individuals who tamper with, interfere with, compromise, modify or attempt to circumvent any security system, measure, or other TSA procedure. Individuals subject to this rule who make knowing and willful false statements, or who omit a material fact when submitting required information for TSA also may be subject to fines and/or imprisonment under 18 U.S.C. 1001, denied approval for a Determination of Eligibility, and subject to other enforcement actions.

2. Compliance, Inspection, and Enforcement (§ 1503.207)

While the IFR included a paragraph related to TSA's inspection authority, it did not provide the same detail found in other TSA regulatory provisions, nor did it align with the full scope of TSA's statutory authority. ATSA authorizes TSA, during reasonable business hours and without advance notice, to enter a facility or access online records and conduct any audits, assessments, tests, or inspection of operations, and view, inspect, and copy any records necessary to carry out TSA's security-related statutory and regulatory authorities.[68] TSA may inspect the original or the recorded copy of any documents provided by a student, candidate, or provider.

This access is necessary to ensure TSA meets its statutory mandate to: (a) enforce its regulations and requirements; (b) oversee the implementation and ensure the adequacy of security measures; and, (c) inspect, maintain, and test security facilities, equipment, and systems for all modes of transportation.[69] This mandate applies even in the absence of rulemaking, but TSA has chosen to include a restatement of its authority in its rules. Over the years, TSA added language through multiple final rules regarding inspections. As a result, TSA's inspection authority had been restated in 49 CFR parts 1542, 1544, 1546, 1548, 1549, 1550, 1552, 1554, 1557, and 1570.

This final rule does not alter the scope of TSA's inspection authority. Through this rulemaking, TSA is consolidating all statements on the agency's enforcement authority into § 1503.207, which covers all of TSA's investigative and enforcement procedures. The new § 1503.207 applies to all of TSA's regulatory requirements. This consolidation is purely technical, as TSA's authority to conduct inspections under each part is not changed. While the various statements of inspection authority included in 49 CFR parts 1500 *et seq.* were not identically worded, TSA has consistently interpreted each of the previous statements to have the same scope and meaning as provided by

[68] *See* ATSA as codified at 49 U.S.C. 114.

[69] *See* 49 U.S.C. 114(f)(7), (11), and (9).

49 U.S.C. 114. This final rule codifies this consistent interpretation in § 1503.207.

H. Severability

TSA is adding § 1540.7 to reflect TSA's intent that the various regulatory provisions be considered severable from each other to the greatest extent possible. For instance, if a court of competent jurisdiction were to hold that the rule or a portion thereof may not be applied to a particular owner or operator or in a particular circumstance, TSA intends for the court to leave the remainder of the rule in place with respect to all other covered persons and circumstances. The inclusion of a severability clause is not intended to imply a position on severability in other TSA regulations.

III. Summary of Changes Between IFR and Final Rule

Table 6 summarizes changes between the IFR and final rule.

TABLE 6—SUMMARY OF CHANGES BETWEEN THE IFR AND THE FINAL RULE

Final rule	Change from IFR	Reason for the change
Subpart A		
§ 1552.1. Scope	Describes the scope and general requirements of the rule.	Technical.
§ 1552.3. Terms used in this part	Consolidates definitions by removing them from other parts of the CFR and publishing them in one part.	Technical change. Provides clarity to requirements by defining terms previously not defined and expanding some existing definitions. Moves some terms used throughout TSA's regulations to § 1500.3. (*See* I.E.)
§ 1552.5. Applicability	Describes the individuals and entities subject to regulation under this rule, with revised text.	Provides clarity regarding applicability of the rules' requirements. Clarifies requirements for persons, entities, and companies providing leased aircraft simulators for flight training. (*See* II.B.).
§ 1552.7. Verification of eligibility	Describes the process for verifying a flight student's eligibility for training in a separate section, with revised text.	Expands and incorporates clarifications published after the IFR was issued, by recognizing that many flight training providers may become aware that a candidate might have become ineligible prior to TSA being informed through formal channels. (*See* II.B. and III.C.).
§ 1552.9. Security Coordinator	Requires all flight training providers to designate a person to serve as a Security Coordinator and outlines the role of the Security Coordinator, including what training the Coordinator must participate in.	Provides a primary contact for administrative purposes and compliance, consistent with TSA's other regulations. (*See* II.B.5.).
§ 1552.13. Security awareness training	Replaces ''recurrent'' security awareness training with ''refresher security awareness training''.	Avoids confusion between recurrent flight training (required by the FAA) and recurrent security awareness training (required by TSA) and reduces the frequency of refresher security awareness training. (*See* II.B.6.).
§ 1552.15. Recordkeeping	Consolidates documentation and recordkeeping requirements and introduces the capability to store and manage records on the FTSP Portal.	Provides clarity and eliminates redundancies. Provides cost-saving options. (*See* II.B.7.).
§ 1552.17. FTSP Portal	Consolidates FTSP Portal account provisions	Provides clarity and eliminates redundancies. (*See* II.E.).
§ 1552.19. Fraud, falsification, misrepresentation, or omission.	Updates language concerning the confirmation and attestation of truth and accuracy.	Provides clarity on impact of making false statements. (See II.G.1, III.C.).
Subpart B		
§ 1552.31. Security threat assessments required for flight training candidates.	Consolidates and standardizes requirements for candidates, and extends the duration of an STA for up to 5 years.	The Determination of Eligibility may be used with one or more flight training providers (portable), instead of requiring a new determination for each flight training event. (See I.D.3., II.C., II.D., IV.C.5.).
§ 1552.33. [Reserved]		
§ 1552.35. Presence in the United States	Describes how TSA determines immigration check eligibility in relation to an STA.	Clarifies TSA's role in conducting an immigration check. (*See* II.D.).
§ 1552.37. Comparable security threat assessments.	Allows applicants to submit proof of a completed, comparable STA.	Allows for a reduced fee for candidates that hold a comparable STA issued by another DHS or TSA program. (See II.C.2., IV.C.).
§ 1552.39. Fees	Consolidates all fee requirements	Combines fees paid over a 5-year timeframe into one fee and incorporates an industry-stated preference to pay a single fee for an STA covering multiple training events. (*See* II.C., IV.B., IV.C., V.).

TABLE 6—SUMMARY OF CHANGES BETWEEN THE IFR AND THE FINAL RULE—Continued

Final rule	Change from IFR	Reason for the change
Subpart C		
§ 1552.51. Notification and processing of flight training events.	Consolidates flight training event notification requirements.	Standardizes phrasing concerning processing capabilities, and collects pertinent information for one to many training events based on a 5-year Determination of Eligibility. (See II.B.3., IV.C.4).

TSA made these changes in response to comments received during the comment periods following publication of the IFR in 2004, and following the reopened comment period in 2018. All changes in the final rule are supported by comments received on the IFR, or following the 2018 reopened comment period, many of which also formed the basis of formal recommendations from ASAC. TSA tailored the scope and content of the final rule to reflect only those changes that are supported by the public record. TSA did not solicit a new round of comments after the 2018 comment period because the issues raised have not changed.

All exemptions, interpretations, and guidance documents related to the IFR are incorporated into the final rule. TSA has authority under 49 U.S.C. 114(q) to issue an exemption to any TSA regulation, if such an exemption is in the public interest. The basis for TSA's decision in each exemption, interpretation, and guidance document was stated in the original documents TSA provided when issuing each decision, all of which may be found in the public docket for this rulemaking. TSA's reasons for incorporating its previous decisions into the final rule are described more fully in the sections of this document referenced in column three of table 6. Most of TSA's interpretations of this rule have been in place for nearly 2 decades, and all interpretations are now standard practice across the flight training community. TSA does not believe any industry members have relied to their detriment upon the original text of the IFR, or any exemptions, interpretations, or guidance documents issued thereafter. The final rule is intended primarily as a cost-saving and burden-reducing measure, and as such, TSA does not expect any members of the flight training community to be significantly burdened by it.

IV. Discussion of Public Comments and TSA Responses

A. Solicitation of Comments on the IFR

TSA has twice invited public comment on the regulatory requirements to inform a final rule. First, the IFR, published on September 20, 2004,[70] requested comments from the public to be submitted by October 20, 2004. Although the original comment period closed in late 2004, one additional comment came after the closing period (in 2011). TSA also accepted this comment as part of the official record. Second, on May 18, 2018, TSA reopened the IFR comment period for 30 days[71] and solicited additional comments on the scope of STAs, including who should receive them and how frequently; options for reducing the burden of recordkeeping requirements, including use of electronic records; and sources of data on costs and other programmatic impacts of the rule. In addition to these formal opportunities for comment, TSA has been interacting with, and receiving feedback directly from, the regulated community on this program since its inception.

In total, TSA received 386 comments on the IFR since it was issued. TSA considered every comment received during the open comment periods as well as other stakeholder feedback on the FTSP since the IFR was published. The following summarizes all comments and provides TSA's responses. Issuance of this final rule concludes the comment solicitation process TSA began with the IFR. TSA believes it has addressed all issues and concerns emanating from public comments, and has incorporated all viable recommendations from the public and industry.

B. General Rulemaking Issues

1. Justification for the FTSP

Comments: In early comments, some commenters and members of an industry association expressed general support for the IFR. Association members noted that the IFR's requirements were reasonable to prevent another terrorist attack similar to the attacks of September 11, 2001.

Some commenters felt the 2004 IFR did not go far enough, and many commenters, including flight training providers, expressed general disapproval of the IFR. Commenters opposing the IFR cited perceived burdens across the regulated industry and predicted the rule would be ineffective against a terrorist threat, stating that terrorists can obtain training elsewhere, flight simulation software is readily available, or that other forms of transportation, such as trucks, pose more of a threat. Some 2004 commenters predicted that the IFR would have a negative effect on aviation safety, and a few commenters in 2018 asserted that any regulation that discourages candidates from training in the United States compromises aviation safety globally and could harm U.S. citizens traveling abroad.

Some commenters suggested that the IFR could be circumvented easily by terrorists or flight training providers, and that non-U.S. citizens who become flight instructors could accumulate flight time in the United States without being vetted by TSA. Several commenters stated that the rule does not prevent a terrorist from learning to fly, stating as examples that terrorists can train in other countries, receive ''informal'' training that is not covered by this rule, or learn using publicly available web-based flight simulation software.

Commenters also expressed concern that the IFR's underlying message was that all foreign candidates are considered potential terrorists or criminals. These commenters suggested this perception and the increased burdens associated with the IFR would discourage non-U.S. citizens from pursuing flight training in the United States.

One industry association suggested that the IFR was not necessary because flight training providers had already implemented other measures that have ''dramatically increased'' flight school security. Some did not accept that a threat exists.

One commenter recommended that TSA ensure that candidates speak and understand English.

[70] *See supra* note 1.

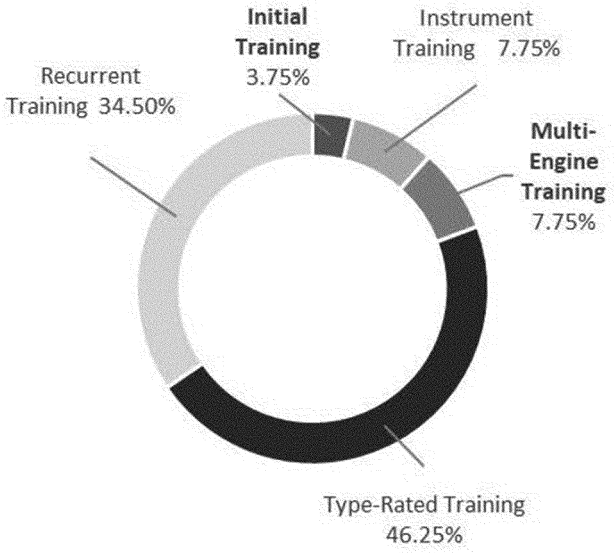
[71] *See supra* note 5.

TSA response: TSA was created in response to the attacks of September 11th, and numerous laws have been enacted since that date to strengthen security. One of these provisions, 49 U.S.C. 44939, requires a nationwide program to identify individuals applying for flight training who present ''a risk to aviation or national security.'' The requirements in section 44939 focus on non-U.S. citizens who obtain in-person flight training, and on security awareness training for flight training providers in general. This rule is aligned with the requirements of that statute.

The primary purpose of the FTSP is to prevent a non-U.S. citizen from receiving flight training unless TSA has determined they are not a security threat. Several of the terrorists who committed the attacks on September 11, 2001, trained at flight schools in Florida, Arizona, and Minnesota.[72] As demonstrated by the horrific events of that day, even a single act of terrorism can cause grave economic and social harm.

Since publication of the IFR in 2004, TSA has identified individuals who posed or may have posed a threat to aviation and national security and prevented them from receiving flight training that they could use to carry out a terrorist act. During the 10-year period shown in Figure 3, below, individuals representing all stages of a pilot's career were identified as posing potential threats to aviation and national security. For this reason, as discussed further below, the final rule focuses on potential skills achieved by an individual, as opposed to the IFR's focus on the weight of an aircraft. Specifically, the final rule covers flight training leading to an initial pilot license, an instrument rating, a multi-engine rating, a type rating, and training required to maintain ratings for specific types of aircraft. The definition of ''flight training'' codifies these changes in § 1552.3.

Figure 3. Training Events Where Non-U.S. Citizens Were Identified as a Threat to Aviation or National Security Over a 10-Year Period



Source: TSA, Enrollment Services and Vetting Programs (FY2009-FY2018)

TSA agrees that the United States benefits from foreign pilots training in the United States under U.S. aviation safety standards. Many of these aviators return to their home countries as professional pilots and provide safer air transportation to U.S. citizens traveling abroad.

Regarding the 2004 comments that the IFR unduly burdened the industry, the final rule implements changes that TSA believes mitigates burdens to candidates and providers. *See* discussion above in section I.D.

Finally, in regard to requiring candidates to demonstrate English proficiency, TSA's mission and authorities do not extend to this concern. The FAA requires English proficiency under 14 CFR part 61.

2. TSA's Authority To Impose Requirements

Comments: Several commenters felt that the IFR exceeded the statutory authority granted to TSA. An industry representative and another commenter stated that the provisions of 49 U.S.C. 44939 pertaining to flight training only require flight instructors to provide identification information to DHS and do not require individuals to submit information to TSA beyond what the statute specifically requires, or to submit to a background check.

TSA response: Under 49 U.S.C. 44939, the Secretary of Homeland Security has broad discretion to

[72] *See supra* note 7.

determine whether a candidate poses a ''risk to aviation or national security.'' The same provision also states that these requirements may be applied to ''other individuals designated by the Secretary.'' As previously noted, the HSA transferred all functions related to transportation security, including those of the Secretary of Transportation and the Under Secretary of Transportation for Security, to the Secretary of Homeland Security.[73] The Secretary of Homeland Security delegated this discretion and authority to the TSA Administrator in DHS Delegation No. 7060.2. In addition to the authorities granted by 49 U.S.C. 44939, TSA has broad authority to ensure the security of air transportation under 49 U.S.C. 114.

TSA has broad statutory authority to assess a security risk for any mode of transportation, develop security measures for dealing with that risk, and enforce compliance with those measures.[74] TSA also has broad regulatory authority to issue, rescind, and revise regulations as necessary to carry out its transportation security functions.[75]

In addition to these authorities, 6 U.S.C. 469(b) requires the Secretary of Homeland Security to establish a process to properly identify individuals who are not U.S. citizens or U.S. nationals who receive recurrent flight training, and to ensure that these individuals do not pose a risk to aviation or national security. The Secretary of Homeland Security has also delegated this discretion and authority to the TSA Administrator in DHS Delegation No. 7060.2. As discussed below, the same statute authorizes the Secretary to impose reasonable fees to recoup the cost of vetting candidates seeking flight training.[76]

3. TSA's Authority To Impose Fee for STAs

Comments: A few commenters, including two industry associations, questioned TSA's authority to impose fees.

TSA response: TSA incurs costs from conducting STAs, processing notifications of training events, enabling expedited processing for eligible candidates, processing comparable STAs, arranging for FBI CHRCs, and online records management. In addition to the authority under 6 U.S.C. 469(a), which requires TSA to fund vetting and credentialing programs in the field of transportation through user fees, TSA is required by 6 U.S.C. 469(a) and authorized by 49 U.S.C. 44939(g) to collect fees for conducting STAs and managing flight training event notifications. Accordingly, TSA charges fees for candidates who receive an STA under the FTSP. A more robust discussion on TSA's authority to collect fees for STAs is provided above in section I.B.6. For more information concerning TSA costs, see the accompanying fee study posted to the public docket and discussion in section II.C.2.

4. TSA's Decision To Issue an IFR

Comments: Several commenters, including professional associations, flight training providers, and others, disagreed with TSA issuing a binding rule without providing the opportunity for prior notice and public comment. They were concerned that stakeholder input would not be solicited or considered.

TSA response: The Vision 100 Act transferred responsibility for the FTSP from DOJ to DHS and required the Secretary of Homeland Security to publish the IFR accomplishing this transfer, and other required changes, within 60 days.[77] For this reason, TSA dispensed with certain notice procedures when it published the IFR. TSA has, however, twice invited public comment on the regulatory requirements to inform a final rule. TSA included an opportunity for public comment on the IFR, specifically asking the public ''to participate in this rulemaking by submitting written comments, data, or views,'' noting that ''to the maximum extent possible, operating administrations within DHS will provide an opportunity for public comment on regulations issued without prior notice.'' [78] In May 2018, TSA reopened the 2004 comment period to solicit further comments on the program and identified six issues for additional consideration.[79] Through this final rule, TSA has considered and responded to all of the comments received. In addition to soliciting public comment through the **Federal Register**, TSA received recommendations from the ASAC, whose meetings are a public record. The details of the ASAC recommendations are discussed in more detail in section I.B.

5. Economic Impacts of the FTSP on the Industry

Comments: Many commenters raised issues regarding the economic impacts of the FTSP. A commenter wrote that the IFR could ''. . . potentially [have] disastrous unintended consequences,'' and that ''TSA has not set a very good example for following rules,'' giving as an example that TSA did not prepare a statement under the Unfunded Mandates Reform Act (UMRA) of 1985. Several commenters predicted that the IFR would ruin the U.S. flight industry, especially recreational flight. For additional information on the ASAC and reopened comment period, see section I.B.4 and 5.

While at least one commenter concurred with TSA that it is appropriate for candidates who undergo an STA for the first time to be held to a 30-day review process to ensure that they do not pose a threat to aviation or national security, many commenters argued that flight training providers should not bear the burden of verifying candidates' citizenship, identification, or other documents. They felt that the IFR created undue time and cost burdens for non-U.S. citizens, lawful permanent residents, and others who had already successfully undergone a U.S.-Government-sponsored threat assessment.

Several 2004 commenters suggested that limiting the number of non-U.S. citizens who receive flight training in the United States would damage the U.S. economy by harming flight schools, flight instructors, and other businesses patronized by foreign customers. Some aircraft operators predicted that the IFR would reduce the U.S. share of the multi-billion-dollar global flight training industry because aircraft operators would train in other countries. An industry association commented that burdens from the IFR threatened the viability of the general aviation industry, private flight instructors, and small flight schools. One commenter wrote that small businesses and independent instructors conduct much of their flight training in the United States and that many of these individuals do not have offices or equipment necessary to comply with the IFR. One commenter wrote ''TSA seems to be putting the burden of safeguarding the airline industry on the flight schools instead of shouldering the responsibility themselves.''

A Canadian aircraft operator disagreed with TSA's determination in the IFR that the rule's economic impact would be neutral, contending that IFR requirements presented a significant

[73] *See supra* note 22.

[74] *Id.*

[75] 49 U.S.C. 114(l)(1).

[76] *See* 6 U.S.C. 469(a). *See also* discussion of authorities in section I.B.2.

[77] *See supra* note 15.

[78] 69 FR at 56324.

[79] 83 FR at 23239.

obstacle to taking flight training in the United States for non-U.S. residents. A pilot stated that, although TSA assumed the IFR would not have a significant impact on the demand for U.S. flight school training despite the increase in costs to candidates, no data was provided to support this assumption. A flight training provider stated that approximately 60 percent of his students were not U.S. citizens, and that the IFR's burden would result in some of these students forgoing training.

Another pilot asserted that TSA's economic analysis in the IFR was based on a flawed model of foreign pilots coming to the United States to complete a single course of training, rather than a series of training events over a long period of time. A flight instructor argued the economic analysis does not account for either non-U.S. citizen pilots training in the United States for a license to be issued by an authority of a foreign country or for non-U.S. citizen pilots receiving proficiency training in the United States.

A major flight training provider submitted that the IFR did not include an estimate of the time lost by flight schools to process candidates for flight training, *e.g.,* identifying all candidates, making copies of information, photographing candidates, and submitting photos to TSA. Commenters in both 2004 and 2018 indicated that TSA had underestimated the paperwork burden. One provider asserted that the number of times candidates would need to apply to upgrade their ratings and keep current on different types of aircraft was more than twice what TSA had assumed in the IFR. Several commenters expressed concern that the costs to industry caused by compliance with the IFR far outweigh the benefits, particularly for light aircraft, and recommended that TSA more thoroughly evaluate the costs and benefits.

Some 2018 commenters noted that domestic and foreign airlines use U.S.-trained pilots to transport passengers and cargo to and from the United States and between other countries, and that the U.S. economy benefits from pilots trained in the United States to FAA standards.

TSA response: TSA is required by 49 U.S.C. 44939 to implement a nationwide program to identify all non-U.S. citizens applying for flight training who ''present[] a risk to aviation or national security.'' In 2004, when assuming responsibility from DOJ and publishing the IFR, TSA conducted all required regulatory analyses to the degree possible. TSA consulted extensively with DOJ and stakeholders on the costs of implementing the DOJ rule and conducted the economic and other analyses published in the IFR. Since the IFR was published, TSA has continually assessed impacts and adjusted the program and requirements.

UMRA [80] does not apply to a regulatory action in which no notice of proposed rulemaking is published, as was the case for the IFR. *See* UMRA analysis for this rulemaking in section V. Accordingly, and as stated in the IFR, TSA did not prepare a statement under the UMRA.

TSA acknowledges regulatory and cost burdens resulting from the IFR, but notes that they mostly resulted from requirements TSA had to impose to comply with statutory requirements. As noted above, TSA has worked continually to improve STA processing and address as many industry concerns as possible. Early predictions that the IFR would be ineffective or ''has the potential for destroying an entire industry'' have proven incorrect. As noted above, since publication of the IFR, TSA has identified individuals who pose a threat to aviation and national security and has prohibited them from participating in flight training. The industry remains a robust economic activity in the United States.

The final rule is intended to minimize cost and time burdens on both candidates and providers while maintaining the appropriate level of security and complying with all statutory mandates. TSA considered all economic impacts identified in the comments and conducted an extensive economic analysis of the impacts of the IFR and the projected impacts of the final rule; this analysis is included in section V. As noted in section I.B.2, a 2008 amendment to 6 U.S.C. 469 required TSA to recoup the costs of STAs for recurrent training.[81] The statutory amendments authorized TSA to establish the fees through notice. Consistent with the changes to the law, TSA published a notice imposing these fees in 2009.[82]

This final rule reduces candidate and provider burdens by moving to a 5-year STA; incorporating all enhancements and clarifications previously issued by the TSA; adding definitions and other clarifications; and allowing for electronic recordkeeping. In addition, TSA has separated the notification of training events by providers from the STA process for the candidate. TSA has also implemented a reduced fee for candidates who have a comparable STA.

TSA believes that these enhancements to the final rule may improve opportunities for non-U.S. citizens to participate in flight training in the United States and with FAA-certificated flight training providers abroad. Finally, the regulatory and cost analyses TSA conducted prior to issuing this final rule, as described in section V, comply with current requirements for issuance of final rules.

C. Specific Regulatory Requirements

1. Terms (General)

Comments: TSA received comments concerning the following terms: ''aircraft simulator,'' ''alien,'' ''candidate,'' ''day,'' ''demonstration flight for marketing purposes,'' ''flight school,'' ''flight training,'' ''ground training,'' ''national of the United States,'' and ''recurrent training.'' Many commenters raised questions relating to the IFR's definitions, particularly questioning how the specific meaning of a term in the IFR would affect the commenter's obligation to comply with the regulation. Definition comments generally fell into the following areas of concern:

- Inconsistencies between how some terms and definitions were used in the IFR's preamble and the regulatory text, especially the terms ''training,'' ''flight training,'' and ''candidate.''
- Inconsistency between the IFR's definition of ''aircraft simulator'' and the FAA's definition.
- Lack of clarity regarding whether lawful permanent residents of the United States are subject to requirements applicable to non-U.S. citizens.
- Lack of clarity on requirements for documentation of leasing agreements associated with training on aircraft simulators.
- Inadequacy of the definition of recurrent training, which caused some confusion and generated many recommendations from commenters.

TSA response: In coordination with industry and other U.S. Government agencies, TSA expanded, consolidated, and clarified definitions in the final rule in the following manner:

- Added the following terms and their definitions to § 1500.3, applicable to all TSA regulatory requirements: ''citizen of the United States,'' ''day,'' ''lawful permanent resident,'' ''national of the United States or U.S. national,'' and ''non-U.S. citizen.''
- Added the following definitions to part 1552, applicable specifically to the FTSP: ''aircraft simulator,'' ''candidate,''

[80] Public Law 104–4 (109 Stat. 66; Mar. 22, 1995), *codified at* 2 U.S.C. 1511 *et seq.*

[81] *See supra* note 20 and accompanying text.

[82] 74 FR 16880 (April 13, 2009).

''demonstration flight for marketing purposes,'' ''DoD,'' ''DoD endorsee,'' ''Determination of Eligibility,'' ''Determination of Ineligibility,'' ''flight training,'' ''flight training provider,'' ''flight training provider employee,'' ''Flight Training Security Program (FTSP),'' ''FTSP Portal,'' ''FTSP portal account,'' ''recurrent training,'' ''security threat,'' ''security threat assessment,'' ''simulated flight for entertainment purposes,'' and ''type rating.''

- Amended the following definitions in part 1552 for clarity: ''aircraft simulator,'' ''candidate,'' ''demonstration flight for marketing purposes,'' ''flight training,'' and ''recurrent training.''
- Replaced the term ''flight school'' with ''flight training provider,'' with some amendments, as appropriate, for clarity.
- Eliminated the terms ''alien'' and ''ground training.''

TSA discusses how these changes to the definitions affect regulatory requirements in section II.A and in the next subsection, which clarifies the scope and applicability of the regulation.

2. Applicability

a. General

Comments: Some 2004 commenters felt that applicability of the FTSP is either too broad or unclear. Several aircraft operators and an association requested that TSA exempt candidates who hold an FAA pilot's license and who have worked for a U.S.-certificated airline for 3 or more years. Most of these commenters argued that their employees meet the statutory definition of a ''national of the United States,'' and therefore fall outside the IFR's scope. Others asked that TSA allow their companies to satisfy the IFR's requirements by sending TSA a list of current airline pilots they employ.

An association noted that all air crews operating into the United States must be on the aircraft operator's Master Crew List and therefore were already cleared to operate into the United States.

Some commenters asked TSA to accept persons cleared by US–VISIT [83] as exempt, because DHS already collected their biometric information (fingerprints) for that process.

TSA response: Both the IFR and the final rule implement the statutory requirements of 49 U.S.C. 44939. Persons who must comply with requirements of the final rule are flight training providers and their employees, all individuals who are ''candidates'' as defined in the rule, and U.S. citizens or U.S. nationals who seek flight training. Section II.B.1 clarifies the need for the requirements as applied to U.S. citizens and U.S. nationals. Section 1552.37 of the final rule allows for those candidates who have successfully completed a comparable STA to submit evidence of that STA in order to qualify for a reduced fee. TSA may accept Determinations of Eligibility held by individuals who participate in TSA's TWIC®, HME, TSA PreCheck®, and CBP's Global Entry, SENTRI, and NEXUS programs, and any other program that TSA publishes on the FTSP Portal as acceptable. TSA does not consider the US–VISIT program to be a comparable STA because the vetting requirements of that program do not include all elements of a Level 3 STA conducted by TSA.

TSA recognizes that the final rule is broad in its applicability to flight training in all locations and in some cases to types of aircraft that may not seem inherently dangerous. Consistent with its transportation security mission, however, TSA recognizes the fact that skills used to operate one aircraft can be transferred to the operation of another aircraft.

b. Scope of Who Is Considered a Flight Training Provider

Comments: Early commenters noted that the IFR did not define ''flight school employee'' adequately, and that the definition of ''flight schools'' also included independent CFIs. These definitions, they noted, resulted in TSA considering an independent instructor to be both a flight school and an employee, despite the fact that the instructor may not be a flight school or an employee as those terms are commonly understood.

In 2004, an industry representative noted that the IFR expanded the scope of the former DOJ program and stated that approximately 3,400 flight training providers provide flight training under 14 CFR part 61 without the necessity for a flight school certification, and approximately 88,000 flight instructors are certificated under 14 CFR part 61, many of whom provide flight training unaffiliated with any flight school.

TSA response: TSA resolved these concerns shortly after the IFR was issued by clarifying that the program is not limited to traditional ''schools'' regulated under 14 CFR part 141.[84] The definition of ''flight training provider'' in the final rule further clarifies which entities must comply with FTSP requirements, making clear that flight training for the purposes of the FTSP program may be delivered by a person operating under one or more of the relevant FAA regulations, *i.e.,* 14 CFR parts 61, 121, 135, 141 and 142. Flight training delivered to non-U.S. citizens under any of these regulations results in their obtaining skills as a pilot; the manner in which the FAA regulates the training is not relevant from a national security perspective.

Consistent with this policy, TSA does not limit the FTSP to only flight training providers certificated under 14 CFR parts 141 and 142 because most flight training in the United States occurs under 14 CFR part 61, by individual flight instructors. Since the inception of the program, approximately 9,000 of the 13,000 flight training providers registered with TSA operate under 14 CFR part 61, and 500 providers operate under 14 CFR parts 121 and 135. Approximately 3,500 flight training providers registered with FTSP and operating under 14 CFR parts 141 and 142 are SEVP-certified. These providers offer FAA-approved courses and ratings; are associated with fixed facilities; and are recognized as an effective way to expose citizens of other countries to the American people and culture.[85]

c. Responsibility for Compliance Under Leasing Agreements for Aircraft and Aircraft Simulators

Comments: Both the ASAC and many 2018 commenters encouraged TSA to define terminology and provide guidance on recordkeeping of lease agreements. A flight training provider noted that the IFR was not specific enough regarding leasing, causing confusion and noncompliance among the parties. An industry representative recommended that TSA limit any regulatory language about leases to only those instances where an aircraft or aircraft simulator would be used for flight training. Individuals and companies who own and operate aircraft and simulators requested that TSA provide clarity on who is responsible for compliance with this regulation.

Most commenters requested that TSA hold only the flight training provider who is actually conducting the training with leased aircraft or aircraft simulators responsible for

[83] Now called the Office of Biometric Identity Management. *See https://www.dhs.gov/obim.*

[84] *See* Letter to John S. Yodice, Aircraft Owners and Pilots Association, Oct. 19, 2004, fn.1, Docket No. TSA–2004–19147–0227 *available at https://www.regulations.gov/document?D=TSA-2004-19147-0227.*

[85] *See* SEVP Policy Guidance for Adjudicators 1207–04: Flight Training Providers, Dec. 11, 2012, at *https://www.ice.gov/doclib/sevis/pdf/sevp-policy-guidance-flight-training-providers.pdf.*

recordkeeping and compliance. Many acknowledged that persons, entities, or companies who own flight training equipment or aircraft may not know what activities that equipment is being used for, including training of non-U.S. citizens. A commenter noted: ''the flight training provider (as opposed to the lessor of the equipment) is best suited to communicate with the candidate and with TSA.'' A provider recalled situations where both the provider and the entity providing the equipment were registered with TSA and were confused about which party should be responsible for recordkeeping compliance.

A company noted that it may lease its simulator to foreign government personnel to conduct training for non-U.S. citizens and that the foreign personnel are generally not flight training providers recognized by the FAA. Other commenters questioned whether TSA would hold foreign governments responsible for complying with this regulation. An industry representative commented in 2018 that it appeared TSA audits and inspections were providing ''informal'' or inconsistent guidance to flight training providers regarding documentation of their lease agreements.

TSA response: The scope of 49 U.S.C. 44939 includes ''training received from an instructor in an aircraft or aircraft simulator.'' The final rule defines the term ''aircraft simulator'' in § 1552.3 and specifically addresses applicability of regulatory requirements to aircraft simulators leased for flight training in § 1552.5.

Regarding comments that a simulator owner leasing the equipment for flight training may lack knowledge of the parties being trained with their equipment, TSA notes that the U.S. Government also cannot know who is using the aircraft simulator unless that information is provided to TSA. The final rule stipulates that the flight training provider must make their leasing agreements available to TSA upon request. Commenters are correct that TSA cannot require a foreign government to register as a flight training provider; in this scenario, the simulator owner is required by § 1552.5(d)(2) to register as the flight training provider.

The clarification under the final rule is limited to aircraft simulator leases, because a person, entity, or company who leases an aircraft for flight training purposes in the United States must be certified by the FAA to operate that aircraft, and must register under this program as a flight training provider if they train non-U.S. citizens. Both flight training providers and the persons, entities, or companies leasing flight training simulators may use the FTSP Portal to document their lease agreements.

3. Determining Whether Vetting Is Required

a. Citizenship Verification Requirements

Comments: TSA received many comments concerning the U.S. citizenship verification requirement, falling into the following broad themes:

- Some commenters questioned TSA's authority to require U.S. citizens seeking flight training to prove their U.S. citizenship, and others asserted these checks were excessive and would not enhance aviation security.
- Several commenters, including an aircraft operator, recommended that TSA accept other means of verifying citizenship, *e.g.,* the aircraft operator's verification of citizenship in the hiring process.
- An industry association asked TSA to clarify that every flight school (including every freelance flight instructor) must determine the citizenship or nationality of every flight student who seeks flight training, including interpreting and determining the authenticity of the student's legal documents.
- A commenter noted that it is redundant to verify citizenship every time a student participates in flight training.
- An industry representative and a flight training provider asked TSA to provide clear guidance on how to verify citizenship, including an updated list of documents flight training providers may accept to establish U.S. citizenship.
- Some commenters, including a major industry association, contended the IFR placed the responsibility of establishing a person's citizenship on individual flight schools and instructors who are not equipped to perform that task.

TSA response: TSA is required by 49 U.S.C. 44939 to ensure that non-U.S. citizens who apply for flight training do not pose a risk to aviation or national security. Flight training providers are best positioned to confirm the identity of those persons who wish to take flight training, and the best way to ensure that non-U.S. citizens who apply for flight training do not pose a risk to aviation or national security is to require flight training providers to verify citizenship status for all individuals seeking flight training. The final rule continues the requirement for flight training providers to review citizenship documents of all U.S. citizens and U.S. nationals who apply for flight training. TSA notes that a designated pilot examiner, an FAA-certificated pilot who is not the same individual as a candidate's flight training provider, submits citizenship verification to the FAA through the Integrated Airman Certification and Rating Application (IACRA), but a pilot examiner generally is not involved in a candidate's training experience until relatively late in the typical training pipeline, well after a candidate has developed many piloting skills. Detailed information regarding verification of citizenship is provided in section II.B.1.

U.S. citizens and U.S. nationals are not required to undergo an STA, but they must provide proof of U.S. citizenship or U.S. nationality to the flight training provider in order for the requirements under 44 U.S.C. 44939 to be implemented. Flight training providers must have this information to identify which flight students are required by law to obtain a Determination of Eligibility from TSA before the individual is permitted to receive covered flight training.

To facilitate provider compliance with rule requirements to verify citizenship, TSA provides the list of applicable identity documents for U.S. citizens/nationals in table 2.

b. DoD-Endorsee Verification Requirements

Comments: A commenter wanted TSA to clarify the process and requirements for flight training providers to accept and facilitate DoD-endorsed candidates.

TSA response: Section 44939(f) of title 49 U.S.C. provides a program exemption for foreign military pilots endorsed by the DoD, but TSA must be able to determine which applicants qualify for that exemption. As a result, if they wish to qualify for the exemption provided under this section, TSA must require DoD endorsees and their governments to provide information that enables TSA to verify their status. TSA is adding a definition of ''Department of Defense endorsee'' to the final rule and providing additional clarity on the necessary procedures and requirements through amendments to § 1552.7. TSA describes these changes further in section II.B.1, and recordkeeping requirements for DoD-endorsed flight training in section II.B.7.

c. Side-Seat Support

Comments: A flight training provider requested that TSA exempt individuals who occupy a side seat during training from the STA required for a candidate.

TSA response: As discussed in section II.B.1(c), the definition of ''candidate'' in § 1552.3 clarifies

requirements as to who is required to undergo an STA before providing side-seat support during flight training. U.S. citizens and other individuals who hold a type rating for the aircraft or who otherwise possess the certificates needed to pilot the aircraft do not need to register with FTSP and undergo an STA in this context. Non-U.S. citizens providing side-seat support who do not hold an appropriate aircraft type rating or other appropriate certificate must hold a Determination of Eligibility from TSA.

4. Flight Training Events

a. Identification and Notification

Comments: Many flight training providers requested that TSA define flight training events by activity rather than the weight of the aircraft. Specifically, they requested that TSA incorporate the terms ''initial,'' ''instrument,'' ''multi-engine,'' ''type-rated,'' and ''recurrent for type-rated'' training in place of the IFR's four categories based on aircraft weight. An industry association and an individual commenter noted that 49 U.S.C. 44939 excludes recurrent training from the definition of training. One aircraft operator requested that TSA clarify which training activities do not have to be reported as recurrent training.

TSA received many comments and requests for clarification concerning the category types, especially the IFR's Category 4 (recurrent training). Commenters observed that either all or certain types of recurrent training do not impart new knowledge to the pilot. Other commenters observed that recurrent training is not included in the enabling legislation.

Some commenters faulted TSA for not excluding from the rule flight training on certain types of aircraft with a maximum certificated takeoff weight of 12,500 pounds or less. These commenters noted that the requirements of 49 U.S.C. 44939 do not apply to aircraft in this weight range and asked TSA to exempt from the rule any flight training in the operation of aircraft weighing less than 12,500 pounds, including helicopters, gliders, rotorcraft, balloons, ultralight aircraft, and all unpowered aircraft.

TSA response: Both 49 U.S.C. 44939 and 6 U.S.C. 469, as amended, require flight training providers to notify TSA of flight training events. Section 44939 also requires flight training providers to wait up to 30 days for TSA to approve flight training events involving aircraft weighing more than 12,500 pounds. Consistent with the statutes, the IFR identified four training categories based on the weight of the aircraft. In addition to these authorities, 6 U.S.C. 469 requires the Secretary of Homeland Security to establish a process to properly identify individuals who are not U.S. citizens or U.S. nationals who receive recurrent flight training and ensure those individuals do not pose a threat to aviation or national security. As noted in section I.B, this requirement was added to section 469 after publication of the IFR.

TSA recognizes that the weight-based structure of both 49 U.S.C. 44939 and the IFR, which tied the requirements of the rule to the aircraft weight being used for the training, created unintended ambiguities. The IFR imposed different requirements and TSA processing times for similar flight training events based on whether the aircraft weighed slightly more or less than 12,500 pounds. This weight-based structure was consistent with 49 U.S.C. 44939(a), (c), and (d), but did not align conceptually with the typical flight training curriculum. In practice, flight training events in the United States are seldom organized or marketed by aircraft weight. Instead, these events are organized around piloting skills, *e.g.,* single-engine, multi-engine, or instrument ratings. TSA also realized that some aircraft models, such as the Cessna Citation or the Beechcraft King Air, may weigh slightly more or less than 12,500 pounds depending on how they were equipped by the manufacturer. The disconnect between the structure of the IFR and the industry's practices resulted in unnecessary confusion.

In January 2005, TSA issued an interpretation of the IFR clarifying that the reporting requirements under the IFR applied to all training events leading to a new FAA certificate or type rating. This clarification resolved the ambiguity of whether the rule applied to training events in aircraft weighing 12,500 lbs. or less, as well as all training in aircraft over 12,500 lbs.[86] This clarification is codified in the final rule, as described in section II.B.2. Even though the final rule organizes flight training by piloting skill, the final rule still meets the policy intent of 49 U.S.C. 44939 because the events that would require reporting by aircraft weight under that statute also require reporting under the final rule.

Potential impacts from the IFR noted by many 2004 commenters concerning aircraft weighing less than 12,500 pounds were mitigated by TSA-issued exemptions and interpretations regarding gliders, balloons, ultralight aircraft, and all unpowered aircraft. All exemptions, interpretations, and guidance documents related to the IFR are either incorporated into the final rule or supplanted by new final rule provisions.[87] Notably, the final rule eliminates the four flight training categories specified in the IFR and replaces them with a requirement to report flight training events as described in § 1552.51. TSA provides more information on this change in section II.B.3.

In addition to eliminating the IFR's numbered, weight-based training categories, the final rule more clearly defines which flight training events require notification and recordkeeping. Although the final rule does not identify or categorize flight training events by aircraft weight, the new reporting and notification requirements based on piloting skills achieve the same results. The final rule focuses on the notification of flight training events that ''substantially enhance a pilot's skills,'' as discussed in section II.B.3. Table 3 lists type-rated training variations that do not require notification under § 1552.51. The final rule's requirement to notify TSA of flight training events aligns with TSA's long-standing interpretation of these requirements under the IFR and the statute, which requires notification for flights in aircraft weighing over 12,500 pounds, *see* 44939(a), and notification for training in aircraft weighing less than 12,500 pounds. *See* 49 U.S.C. 44939(c).

Finally, under the final rule, the flight training notification requirement in § 1552.51 is separated from the STA requirement in § 1552.31. All candidates are still required to have a current, valid STA prior to participating in any flight training event covered by the regulation, including recurrent training. Developments in information technology, however, now allow continuous vetting of each candidate for terrorism and criminal disqualifications. These developments allow TSA to require only one STA that may be valid for up to 5 years. As discussed in section V, TSA believes these changes significantly reduce the regulatory burden.

[86] *See* Interpretation of ''Flight Training'' for Aircraft with an MTOW of 12,500 Pounds or Less and Exemption from Certain Recurrent Training Information Submission Requirements Contained in 49 CFR part 1552 (Jan. 5, 2005) available as Docket No. TSA–2004–19147–0337 at *https://www.regulations.gov.*

[87] Interpretations and other clarification documents are posted on the public docket at *https://www.regulations.gov/docket?D=TSA-2004-19147.*

b. Recurrent Training

Comments: Commenters did not find value in conducting STAs on individuals engaged in recurrent training for type ratings they already hold.

TSA response: TSA is required under 6 U.S.C. 469(b),[88] to establish a process to ensure that non-U.S. citizens applying for recurrent training in the operation of any aircraft are properly identified and have not become a risk to aviation or national security since the time that a prior STA was conducted.[89] Figure 3, above, shows that more than a third of the security threats identified by FTSP over a 10-year period were candidates participating in recurrent training.

5. STA Requirements

a. General

Comments: Many flight training providers and industry associations expressed concern that the IFR's requirement to obtain an STA for each training event posed logistical and financial burdens for candidates and providers alike. Flight training providers, industry associations, their members, and others requested that TSA accept the threat assessment conducted by FAA when issuing airman certifications. Some commenters and a trade organization recommended that TSA work with the FAA to augment the IACRA process with additional security measures that would satisfy TSA's STA requirements. Many commenters recommended that TSA accept vetting conducted by other government agencies that review or approve applications for student pilots to obtain a U.S. entry visa, such as student pilots processed and approved by FAA-approved flight schools and U.S. embassies for M–1, F–1, or J–1 visas,[90] or immigrant candidates vetted by USCIS. Others thought that TSA should accept driver's licenses and/or passports in lieu of an STA.

Two commenters also expressed concern that individuals could be subjected to racial profiling and discrimination as a result of IFR requirements.

TSA response: Section 44939 requires non-U.S. citizens seeking flight training to submit specific information to TSA (under delegation from DHS) to determine whether or not the individual poses a threat to aviation or national security. Thus, the final rule continues to require all non-U.S. citizens to undergo an STA before they may begin flight training to determine whether they may pose a threat to aviation or national security. In most cases, however, the final rule's move from an event-based to a time-based STA means that most candidates will apply for an STA prior to their first training event and then once every 5 years thereafter. The next section provides more discussion on this topic.

Non-U.S. citizens may undergo multiple vetting processes by other agencies before and after arrival in the United States. However, these checks generally are not equivalent to a Level 3 STA. For example, as part of the FAA certification process, all flight students undergo a terrorism-only check, but this check does not include either a fingerprint-based background check for disqualifying criminal offenses or an immigration check. The FAA threat assessment focuses only on terrorism, based on the information provided by the candidate through either FAA's IACRA or Form 8710 (variations) used to apply for an airman certificate or rating.[91] Application information is not verified by the FAA until after the student receives training and begins their practical test with a check airman, which does not meet the 49 U.S.C. 44939 requirement that a provider may conduct flight training for a non-U.S. citizen ''only if that person has notified the Secretary that the individual has requested such training and furnished the Secretary with that individual's identification in such form as the Secretary may require'' and only after the Secretary, through TSA in accord with this regulation, has determined that the individual does not ''present a risk to aviation or national security.'' Section II.C.2 describes some of the background checks that are equivalent to a Level 3 STA.

TSA does not profile individuals on the basis of race or ethnicity and has never condoned racial profiling. TSA screens all candidates based on factors that do not focus or discriminate on the basis of race or ethnicity.

b. Frequency of Security Threat Assessment

Comments: The ASAC and several commenters expressed concern that the IFR required an STA for each flight training event. Some noted that the burden of resubmitting documentation and fees for multiple STAs made it difficult for flight students to change flight training providers or seek additional training from independent instructors.

A flight training provider requested that TSA allow providers to register a candidate for multiple training events on a single STA. Another provider noted that certain candidates are part of a team of pilots and may want to register as a team for flight training events, usually for type-rated or recurrent type-rated training. A provider commented that the options to register multiple training events for a candidate and multiple candidates for a single training event would improve efficiency and reduce clerical errors.

Other commenters requested that TSA limit the number of STAs and associated fees to reduce the financial burden on candidates and flight training providers and, thereby, reduce obstacles to flight training in the United States. Some commenters objected to TSA's calculations described in the IFR; others objected to collecting fees on the behalf of the Government. A flight training provider relayed that its candidates would be willing to pay a higher fee to avoid submitting multiple fees over a 5-year period.

TSA response: The IFR complied with 49 U.S.C. 44939, which required TSA to ensure that an individual is eligible for each flight training event. TSA's vetting capabilities when the IFR was issued were more limited than they are today, making it necessary to conduct an STA with each training event.

Newer capabilities to conduct recurrent criminal and terrorist vetting allow TSA to implement a time-based approach in place of the IFR's event-based approach. Implementing a 5-year STA under the final rule aligns this program with other TSA programs, including TSA PreCheck®, TWIC®, and HME. TSA chose the 5-year term when creating these vetting programs several years ago to align with government security clearance programs and to balance the legitimate need for accurate contact and biographic information against the costs associated with requiring multiple enrollments for individuals.

Flight training providers are required to notify TSA before every flight training event to confirm that a candidate remains eligible for flight training. The final rule allows candidates to pursue flight instruction from one or more providers and continue their flight training curriculum without having to undergo multiple STAs. This use of the 5-year STA is possible because the flight training provider notifies TSA of each training

[88] *See supra* note 20.

[89] *See id.* and related discussion. *See also* discussion in section IV.B.5.

[90] *See https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/all-visa-categories.html* for more information on visa categories.

[91] For more information on IACRA, *see https://iacra.faa.gov/IACRA/Default.aspx.*

event and receives confirmation that the candidate has a current Determination of Eligibility. If flight training providers were not required to notify TSA of each training event, TSA could not provide this more fluid use of the STA.

Candidates must register with TSA individually through the FTSP portal. Team or group registrations are not permitted, because TSA requires individual biographic and biometric information to complete any required STA, and to confirm that each individual remains eligible for flight training.

Requirements specified in subpart B of the final rule reduce the overall fee burden for candidates by reducing the number of required STAs. The consolidated fee paid by the candidate and discussed in section II.C.2 covers any covered training events that may occur during the duration of the candidate's STA. Under § 1552.51(a) and (b), the flight training provider (not the candidate) is responsible for notifying TSA of all candidate flight training events. Table 7 shows fees collected under the IFR compared to estimated fees that will be collected for the final rule's 5-year STA and one or more training event notifications. This comparison demonstrates anticipated cost savings for a candidate resulting from the final rule's change from an event-based approach to a time-based approach for the candidate STA.

TABLE 7—COMPARISON OF IFR FEES AND FINAL RULE FEES

One to many event-based STA fees paid by candidates over a 5-year period fell into these broad ranges			One consolidated 5-year time-based STA fee paid by the candidate under the final rule for the type of STA processing shown
Number of candidates (percent of total candidates)	Number of STAs	Fees paid under the IFR	5-year fee paid under the final rule
12	1	$130	Reduced fee eligible—$125
6	2	140–260	
41	3–5	210–650	
28	6–10	420–1240	Regular fee—140
13	11+	770+	

X

In contrast to repetitive fees for multiple STAs under the IFR, under the final rule, candidates in each of these examples pay only one consolidated fee, which covers their STA and all notifications of flight training event(s) for up to 5 years. Fee requirements for conducting a new STA, requesting an FBI CHRC, and validating a prior or comparable STA are discussed further in sections II.C.2.

c. Portability of a Determination of Eligibility

Comments: Industry representatives, flight training providers, and candidates reported cost and time burdens due to the inability under the IFR to transfer a Determination of Eligibility between flight training providers. Providers requested that TSA limit or discontinue charging a separate fee for moving a candidate's STA from one flight training provider to another.

Many candidates noted that the time-based approach would allow them to transfer to other flight training providers more easily, and many providers noted that a single STA for a specified time period would ease managing multiple events for one candidate.

A provider observed that a Determination of Eligibility to provide flight training ''should be valid at any school'' registered with TSA. Another provider encouraged TSA to establish the portability of candidate Determinations of Eligibility, stating that this could generate more business for the U.S. flight training industry. An industry representative stated that most professional pilots cannot always train with the same flight training provider because of their schedules.

A flight training provider requested clarification of the 180-day waiting period specified in the IFR. Another commenter characterized the IFR's requirement for a candidate STA for each training event as rigid and not allowing for time it may take to obtain a visa. Pilots may need to change from one provider to another because of visa delays or changes in immigration status.

TSA response: The final rule allows portability of a candidate's Determination of Eligibility, which means that a candidate may engage in flight training from multiple providers after successfully completing one STA, resulting in cost and time savings for candidates, providers, and the government. The IFR's limitation that a candidate must start training within 180 days no longer applies. Generally, a candidate's Determination of Eligibility remains valid for 5 years, unless TSA determines through continuous vetting that the candidate is no longer eligible. For instance, if a candidate were convicted of a disqualifying criminal offense in year 3 of the STA, TSA would disqualify the candidate because they no longer meet the standard. This same determination could take place due to terrorism concerns or lack of permission to enter or remain in the United States.

d. Security Threat Assessment Comparability

Comments: A number of commenters requested that TSA accept STAs conducted by other U.S. government agencies. A non-U.S. citizen pilot working for a foreign aircraft operator under 49 CFR part 1546 recommended TSA accept a Determination of Eligibility acquired under that program. Another aircraft operator requested that TSA eliminate redundant requirements for an STA that the candidate obtained when working for a U.S. air carrier or that the candidate was previously issued for another flight training event.

TSA response: The statute requires an STA for all flight training candidates. However, TSA recognizes that many aircraft operators already conduct comparable STAs of candidates to comply with other TSA regulations or other U.S. Government requirements. The final rule specifies that TSA may verify and accept STAs that include comparable, unexpired terrorism, criminal, and immigration checks. For example, TSA may accept Determinations of Eligibility held by individuals who participate in TSA's TWIC®, HME, TSA PreCheck®, and CBP's Global Entry, SENTRI, and NEXUS programs, and any other program that TSA publishes on the FTSP Portal as acceptable.

The final rule includes three deregulatory adjustments that mitigate the burdens imposed by the IFR's STA requirements. First, under § 1552.31, the rule eliminates the need to undergo an

STA with each training request and instead adopts an STA valid for up to 5 years. Second, TSA now allows for the transfer or portability of a Determination of Eligibility by the candidate from one flight training provider to another without submitting duplicate paperwork. Third, under § 1552.37, TSA may accept comparable STAs for a reduced fee.

e. Security Threat Assessment Application Process

Comments: TSA received many comments that the IFR's application process was burdensome, and that small business entities are limited in their ability to gather, maintain, and transmit records. Many commenters requested that TSA limit data collected on candidates to the six data elements listed in 49 U.S.C. 44939, which are: full name, including aliases and variations of spelling; passport and visa information; country or countries of citizenship; date of birth; estimated dates of training; and biometrics, specifically fingerprints. Lawful permanent residents requested that TSA accept their lawful permanent resident documentation in lieu of a valid passport.

Many 2004 commenters objected to the IFR's requirement that flight training providers capture and submit a photograph of the candidate on their arrival for training, citing such reasons as: the statute does not require a photograph upload; immigration authorities already have taken photographs of lawful permanent residents; training should not be delayed for up to 5 days; and some businesses cannot afford to comply. A 2018 commenter suggested that TSA reduce the ''amount of paperwork required'' such as uploading images and providing other documentation.

Several commenters suggested that TSA accept fingerprints obtained when a candidate applied for a visa or lawful permanent resident status. Early commenters noted a scarcity of fingerprinting locations abroad, which they predicted would harm their operations. Aircraft operators commented that they may have to send their pilots to the United States to be fingerprinted, and that it could take more than 30 days to receive criminal history records returned to TSA for adjudication. An aircraft operator suggested that TSA provide locations abroad for pilots to be fingerprinted. Many flight training providers requested that TSA accept fingerprints they collect themselves rather than through TSA-authorized fingerprint collection services. One provider noted that many pilots participate in FAA-certified flight training exclusively outside the United States and that it is difficult for many of them to fly to the United States just to be fingerprinted.

TSA response: Verification of citizenship for each flight training event is required by 49 U.S.C. 44939. To conduct the required STA, TSA collects the six basic biographic and biometric data elements listed in that statute. As is standard practice across all TSA vetting programs, TSA requires additional information to conduct the scope of STA necessary to determine whether a candidate presents a risk to aviation or national security, which is what TSA must do to comply with the requirements of 49 U.S.C. 44939. TSA only collects the candidate information necessary to determine whether the candidate presents a risk to aviation or national security. The additional information also helps to verify identity, confirm that the applicant is presenting information that is true, and aids in Federal response if TSA determines the individual poses a threat. TSA collects this information in all vetting programs.

TSA provides all vetting applicants with Privacy Act notices that explain what their data is being used for and with whom it is shared. TSA added explanatory text to the preamble in response to similar comments. In many cases, candidates also use TSA's preliminary Determination of Eligibility as a reference document to obtain a visa from the U.S. Department of State. The final rule adopts a broader list of acceptable documentation to identify and document a candidate's presence in the United States, as provided in table 4.

TSA collects information in accordance with the Paperwork Reduction Act (PRA) [92] and the Privacy Act.[93] Wherever possible, the final rule adjusts the FTSP's operational, administrative, and recordkeeping requirements to minimize burdens while maintaining the appropriate level of security.

The final rule addresses burdens posed by multiple STAs required under the IFR by implementing a time-based approach to the STA requirement. Under the procedures in the final rule, TSA may issue a Determination of Eligibility that remains valid for up to 5 years to candidates that successfully complete an STA. When TSA published the IFR, recurrent terrorism and CHRCs were not available, which led to TSA's use of an event-based approach to STAs. Having implemented continuous review of terrorism databases for other programs and the use of continuous criminal vetting, TSA is confident in the efficiencies and security effectiveness of this capability as it is expanded to the FTSP.

In accordance with 49 U.S.C. 44939, TSA does not accept fingerprints directly from any individual, to minimize the risks of fraud and collection of unreadable prints. TSA works with vendors to provide fingerprinting services domestically and abroad. The FBI currently returns criminal history records to TSA within 2 business days of receipt. Under current policy, the FBI restricts the sharing of fingerprints collected for one purpose with the intent of those fingerprints being reused for a different purpose. Accordingly, TSA will not accept fingerprint information from another agency. Under the final rule, candidates pay for an STA and submit fingerprints once every 5 years, unless otherwise directed by TSA. TSA believes the final rule's reduction in costs achieved in part by reducing how often candidates must be fingerprinted will provide relief for candidates and flight training providers. The requirement that the flight training provider upload a current photo of each candidate when the candidate arrives for flight training is an important security measure. TSA may compare that photo with photos obtained by other agencies as part of its candidate vetting process.

f. Immigration Checks

Comments: Many commenters recognized that non-U.S. citizens must undergo an immigration check during the STA process, and offered opinions on what documents should be required to participate in flight training in the United States. Some felt that flight training should not be allowed on a tourist visa, while others felt TSA should accept tourist visas, particularly for professional pilots, rather than requiring a visa specific to education or professional training. One commenter recommended that TSA accept a flight training candidate's USCIS Form I–9, Employment Eligibility Verification. Some commenters recommended limiting the STA to the expiration of the candidate's passport or immigrant or nonimmigrant documents.

A flight training provider encouraged TSA to work closely with DOS to provide clarity as to which immigration categories may permit a candidate to participate in flight training. The provider noted that embassies and consulates vary widely in how they adjudicate visas. The ASAC and various

[92] *See* 44 U.S.C. 3501, *et seq.*

[93] *See supra* note 32.

commenters encouraged DHS to include TSA in any discussions between agencies regarding immigration categories and eligibility for flight training. One commenter noted that the IFR did not address immigration violations and another commenter suggested that immigration authorities should consider creating a visa specific for candidates.

Commenters felt that professional pilots should not be required to undergo the DHS Form I–20 (Certificate of Eligibility for Nonimmigrant Student Status) process and obtain an M–1 visa [94] for short-duration training in the United States.

A commenter noted that many flight instructors who provide training in the United States are not U.S. citizens. Many are lawful permanent residents or individuals employed by airlines and sent to the United States to obtain or provide training on company owned simulators. These instructors, who are not lawful permanent residents, often use the B1/B2 visa [95] for doing business in the United States, and most of them are subject to an STA under 49 CFR parts 1544 or 1546.

Finally, an industry representative noted that lawful permanent residents do not present the same security risk as other non-U.S. citizen candidates and recommended TSA give lawful permanent residents special consideration when processing their STAs.

TSA response: TSA is required by 49 U.S.C. 44939 to ensure that all non-U.S. citizens, including lawful permanent residents, undergo an STA for flight training.[96] Completion of a favorable STA that includes an immigration check is sufficient to pursue flight training under TSA regulations. TSA does not limit eligibility for flight training to specific types of visas; any non-U.S. citizen that is authorized to be in the United States is potentially eligible for flight training.[97] Any restrictions, however, on a candidate's permission to remain in the United States will affect the duration of an STA issued under this part. Candidates deemed ineligible following an immigration check may submit new documentation to correct the record regarding their immigration status, parolee status, visa expiration date, or other permission to remain in the United States.

TSA does not set immigration policy and implements policy guidance established by U.S. Government immigration authorities. Some U.S. embassies require a Form I–20 and a completed STA from TSA prior to issuing a visa specific for vocational or formal flight training. Other U.S. embassies do not require the TSA STA prior to issuing a visa. TSA relies on the DOS and DHS's agencies with immigration responsibilities for direction on immigration policies and, to the fullest extent possible, applies their policies to a candidate's immigration check. TSA will deny flight training to candidates who may have violated any applicable Federal immigration policies.

TSA does not accept a Form I–9 because the I–9 is not an identification document or proof of permission to remain in the United States. Although the I–9 collects information that an employer has reviewed, that information has not been reviewed or confirmed by a U.S. Government official.

Section 1552.35 requires the STA expiration date to coincide with the expiration of a candidate's documentation that establishes their permission to remain in the United States, or 5 years, whichever comes first, as discussed further in section II.D. If a candidate's initial documentation limits the STA to less than 5 years (such as a visa that expires before 5 years), the candidate may subsequently provide additional documentation on their FTSP Portal account, which may allow TSA to extend their STA up to the 5-year maximum.

Finally, TSA recognizes that non-U.S. citizens granted lawful permanent residence status in the United States may be a lower-risk population relative to other candidates. Under § 1552.51(f), lawful permanent residents are now eligible for expedited processing. These individuals will still be required to successfully complete the STA, but the availability of data related to their status as a lawful permanent residence permits TSA to provide the expedited process.

g. Correction of Record

Comments: Two commenters recommended TSA add a provision to the rule that gives a candidate a right of appeal if TSA denies their application for training, noting that other TSA rules permit applicants to appeal a decision made by TSA.

TSA response: Following publication of the IFR, TSA allowed candidates to provide additional information to correct the record, if the candidate's application for an STA was denied. The final rule codifies this process without change. *See* § 1552.31(e). Candidates who receive a Determination of Ineligibility or have their Determination of Eligibility revoked may submit new information to TSA to correct inaccurate identification or immigration information. TSA cannot correct any information it receives from a CHRC. This information typically comes from a U.S. state or U.S. Federal criminal history records information system. To challenge the accuracy or completeness of any information on a criminal record, the candidate must contact the State or Federal agency that originated the record, or the candidate may contact the FBI directly.

6. Security Awareness Training Requirements

a. Flight Training Provider Employees

Comments: TSA received many comments about the IFR's security awareness training requirements. An industry association asserted that these requirements exceeded the scope authorized under 49 U.S.C. 44939 by applying the security awareness training requirements to flight instructors who are not employed by flight schools. One commenter recommended that the final rule clarify security awareness training requirements for independent instructors.

Flight training provider commenters in 2018 also requested that TSA define ''flight training provider employee.'' Specifically, providers sought direction as to whether the following individuals were covered by the rule: management; administrative staff; CFIs; ground instructors; a director of training; and/or any other person employed by a flight school, including an independent contractor. An aircraft operator recommended that TSA require security awareness training only for those employees who have direct contact with a flight school student. An aircraft operator commented that the definition of flight school employee did not appear to include employees of training schools operating under 14 CFR part 121 or 14 CFR part 135.

TSA response: 49 U.S.C. 44939 requires security awareness training and refresher security awareness training for flight training provider employees. The final rule defines ''flight training provider employee'' as an individual, whether paid or unpaid, who has direct contact with flight training students and

[94] M–1 visa is a type of student visa reserved for vocational and technical schools.

[95] B1/B2 visa allows an individual to enter the United States temporarily for business or pleasure.

[96] Under 8 U.S.C. 1101(a)(20), the term ''lawfully admitted for permanent residence'' means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with U.S. immigration laws.

[97] *See* ICE SEVP Guidance, Non-Immigrants: Who can Study? (2018), available at *https://www.ice.gov/doclib/sevis/pdf/Nonimmigrant%20Class%20Who%20Can%20Study.pdf.*

candidates. Through the definition of ''flight training provider'' in § 1552.3, this final rule also clarifies that all flight training providers, including CFIs, must comply with the security awareness training requirement.

As noted in section II.B.6, the employees of a flight training provider may be the first or only line of defense against a determined terrorist or insider threat. Initial security awareness training when flight training provider employees are hired and biennial training thereafter bolsters an employee's ability to assess and identify potential threats. Flight training provider employees, after training, should be able to identify anomalies or aberrant behavior by their customers or by other persons in or around their flight training operations and report such observations to Federal, State, Tribal, or local law enforcement and to TSA.

Section 1552.13(a) and (b) of the final rule excludes from the security awareness training requirement those flight training provider employees who do not have direct contact with candidates and students, *e.g.,* baggage handlers, custodians, or grounds maintenance staff who are unlikely to have direct contact with candidates and students. Section II.B.6 provides additional discussion of covered and excluded employees.

b. Frequency of Training

Comments: Some commenters recommended that TSA provide more flexibility in scheduling requirements for security awareness training. Others requested clarification on security awareness training recordkeeping requirements. An industry representative requested TSA mitigate the redundancy of the IFR's requirement to conduct security awareness training for those companies who already conduct security awareness training under a TSA-approved security program such as those conducted under 49 CFR parts 1542, 1544, and 1546. An aircraft operator asked TSA to allow aircraft operators and their affiliated aviation training centers certified by the FAA under 14 CFR part 142 to satisfy the refresher security awareness training requirement through training they conduct under a TSA-approved security program.

Many flight training providers asked TSA to allow a longer interval between refresher security awareness training events. Another provider requested TSA eliminate the requirement for refresher security awareness training and allow email updates instead.

TSA response: The final rule reduces the required frequency of security awareness training to provide economic and logistical relief to flight training providers and more flexibility in how they schedule refresher training. As discussed in section II.B.6, the final rule replaces the IFR's annual security awareness training requirement with an initial training requirement that must be completed by all covered flight training provider employees within 60 days of hiring and a biennial refresher training requirement thereafter. A provider may conduct refresher training on or before the 2-year anniversary of the previous initial or refresher training. The final rule allows aircraft operators to meet initial and refresher training requirements by documenting their compliance with other TSA security programs, such as security awareness training provided under 49 CFR parts 1544 and 1546.

Flight training providers may either leverage security awareness training modules created by industry organizations or create their own. Providers should include any nuanced security concerns pertinent to their site-specific operations.

TSA believes an email message is not adequate for security awareness training because an email cannot replace a full course. Emails cannot fully refresh previously taught security awareness principles or memorably introduce new security concerns raised since the previous training.

7. Recordkeeping Requirements and the FTSP Portal

a. Electronic Submission of Information and Recordkeeping

Comments: TSA received many comments in both 2004 and 2018 asserting that the IFR's recordkeeping requirements were duplicative, costly, and burdensome. In 2018, commenters overwhelmingly responded to TSA's query as to the projected ''impact of allowing regulated parties to use electronic recordkeeping, in whole or in part, to establish compliance'' [98] by recommending that TSA accept and facilitate electronic recordkeeping to demonstrate compliance with this regulation.

Some commenters suggested that TSA allow them to retain or use their own electronic recordkeeping systems. An aircraft operator requested that TSA make a determination that its FAA-approved recordkeeping system satisfies TSA's training documentation and recordkeeping requirements. Another commenter estimated that electronic recordkeeping through TSA would reduce their costs by two-thirds.

TSA response: The final rule establishes that TSA will implement and maintain an electronic recordkeeping capability via the FTSP Portal to provide regulatory and cost relief for flight training providers. This capability will give providers the option to demonstrate compliance electronically in lieu of maintaining physical or manual records. TSA recognizes that many flight training providers already have robust facilities and systems to document all records required under this part. The final rule allows providers to use their own recordkeeping systems, but permits use of the FTSP Portal to provide a consolidated resource.

b. Registration Requirements for Flight Training Providers

Comments: Flight training industry representatives and flight training providers questioned whether providers who do not instruct non-U.S. citizens must register with TSA. A few providers recommended that they be allowed to register with TSA first and that TSA verify their certificated status with FAA. One provider recommended that TSA provide an alternative for registration at an FAA flight standards district office. Other commenters requested clarification as to whether flight training providers operating under 14 CFR part 61 should register as independent CFIs or part 61 flight training providers.

A commenter requested that TSA identify non-U.S. citizen flight students obtaining an FAA certificate along with the instructor or school signing off on the certificate.

Some providers expressed concern about the IFR's requirement that the point of contact or administrator of a flight training provider must hold an FAA certificate.

TSA response: Flight training providers who do not train non-U.S. citizens are not required to register with TSA; however, they may want to do so in order to take advantage of the FTSP Portal to store other records required to demonstrate compliance with the final rule. Flight training providers who provide instruction to non-U.S. citizens must register online with TSA. TSA concurs with the recommendations that providers be allowed to register through the FTSP Portal and that TSA confirm that registration with the FAA. FAA confirms the CFI's certificate under 14 CFR part 61 or the flight training provider's certificate(s) under 14 CFR parts 141, 142, 121, or 135. As discussed in section II.B.5, § 1552.9 of the final

[98] *See* 83 FR at 23238.

rule allows a non-certificated individual to register as the flight training provider's Security Coordinator.

c. Providing Information to TSA

Comments: A few flight training providers and an aircraft operator asked TSA to clarify how candidates and providers should submit information to TSA. A provider expressed concern that some candidates and providers may not have access to the internet. An aircraft operator requested TSA avoid electronic signatures as a way of verifying accuracy.

TSA response: TSA adopted the information collection procedures previously established by the Department of Justice when TSA assumed responsibility for the FTSP program almost 2 decades ago. At the time, candidates and providers were encouraged to apply online, but also were allowed to provide information by fax transmission. Use of fax machines to transmit paper records often introduced human error, excessive cost and effort for TSA, and frustration for candidates and providers. TSA has not processed a fax-and-paper application since 2007. Validation of the information provided by candidates and providers through the FTSP Portal reduces human error and allows candidates and providers to check for accuracy, reuse information provided to TSA previously, and upload information in a timely manner.

Internet access has improved significantly since the IFR was issued, to a degree that all flight training providers likely have multiple means of internet access at all times. Similarly, the use of digital signatures on electronic documents is now common. In recognition of these developments, the final rule requires digital signatures and use of the FTSP Portal where appropriate.

d. FTSP Customer Support

Comments: A flight training provider relayed dissatisfaction with responses to emails and phone calls to TSA. Another provider requested TSA provide guidance to candidates on how to apply for an STA, and that the guidance be made available to flight training providers so they may assist candidates.

TSA response: Flight training candidates apply for STAs from countries in all time zones around the world. TSA has found that flight training candidates, whose English proficiency may be limited, communicate best with the program via email, as it is more efficient to understand the candidate's concern and address the problem in a written format.

TSA maintains detailed candidate and provider user guides and frequently asked questions on the FTSP Portal. A candidate still experiencing difficulties with the application process may contact FTSP via email to *FTSP.Help@tsa.dhs.gov.* TSA generally responds to emails within 5 to 7 business days.

e. Security of Information in FTSP Portal

Comments: Some commenters in 2004 were concerned about the FTSP Portal's security. Some expressed concern about maintaining personally identifiable information at their place of business or in their homes and desired a more secure location or system provided by TSA. Some commenters stated this would enable TSA to apply its cybersecurity standards to those records, thereby increasing security. A commenter in 2018 suggested that, with more than 5,000 flight training providers registered with TSA, maintaining their records on a Federal system would result in economies of scale and enhanced cybersecurity.

TSA response: TSA shares users' concerns about the security of their data and the protection of personally identifiable information. All TSA systems and networks, including the FTSP Portal, meet DHS enterprise cybersecurity protocols and best practices, in accordance with statutory authorities such as the Federal Information Security Modernization Act[99] and the Privacy Act.[100] TSA enhanced the portal's information technology infrastructure in 2007 and 2012, and through ongoing efforts from 2018 to the present. In implementing the final rule, TSA will continue to use DHS-required cybersecurity technologies and standards to protect the security of all data and records stored by TSA, including flight training provider records uploaded to the FTSP Portal.

f. Privacy Concerns

Comments: Several commenters in 2004 raised concerns about democratic processes and civil liberties. A few were concerned about privacy issues raised by the IFR's recordkeeping requirements. Some commenters expressed that TSA does not have the statutory authority to require third parties to establish pilot citizenship files or the legal protections for those files.

An industry association noted that the documentation flight training providers maintain in a pilot's employment file is already subject to privacy protection requirements. Other commenters stated they did not have the ability to properly store and maintain sensitive documents.

TSA response: TSA is required by 49 U.S.C. 44939 to collect the information required by this rule. TSA follows all pertinent laws and DHS policies governing the collection of this information, including the publication of a Privacy Impact Assessment (PIA) and System of Records Notice (SORN) maintained and posted online through DHS.[101] TSA's compliance with the privacy and information collection requirements is discussed in section V.

In response to the concern that CFIs and other providers are required to retain student and candidate personal information, TSA notes that providers must as a business practice maintain files that are certain to contain protected privacy information about persons they employ. For example, employers must complete paperwork, such as the Form I–9, to verify an individual's eligibility for employment in the United States, that contains an employee's name, address, and other personally identifiable information. Enhancements to the FTSP Portal provide an electronic, secure alternative for all flight training providers to ensure the privacy and security of all flight student, candidate, and flight training provider information.

D. Compliance

1. Enforceability of the Rule

Comments: In 2004, a few commenters felt that the rule would be ''unenforceable.''

TSA response: TSA has successfully enforced this rule and administered the FTSP for more than 18 years. In accordance with TSA's statutory and regulatory authorities stated in § 1503.207 and discussed in section I.E, TSA's domestic and international compliance offices will continue to conduct audits and inspections. FTSP coordinates closely with these other TSA offices to identify and thwart attempts to circumvent this regulation. In addition, the FAA sends TSA an electronic record of all airmen, updated each month, who have been issued new pilot certificates. TSA reconciles this FAA data with TSA's own record of non-U.S. citizens who have applied for flight training through the FTSP

[99] Public Law 113–283 (128 Stat. 3073; Dec. 18, 2014).

[100] Public Law 93–579 (88 Stat. 1896; Dec. 31, 1974), *as codified at* 5 U.S.C. 552a.

[101] For the FTSP PIA and SORN, *see* DHS–TSA Privacy Impact Assessment, DHS–TSA–PIA–026, Alien Flight Student Program, at *https://www.dhs.gov/publication/dhs-tsa-pia-026-alien-flight-student-program. See also supra* note 32 for information on the SORN.

program. Any discrepancies between the TSA and FAA records are promptly resolved and, if necessary, addressed through a combination of civil or criminal penalties.

2. Compliance, Audits, and Inspections

Comments: A major industry flight training provider asked TSA to publish its inspection rhythm or schedule and provide clear guidance to enable flight training providers to anticipate when inspections and audits will occur and what will be required. Other providers asked TSA to give them the same guidelines TSA inspectors use to conduct audits.

TSA response: Figure 2 itemizes what providers must do to comply with this regulation. The provider guide posted on the FTSP Portal has more detailed guidance on recordkeeping. In addition, TSA's published Enforcement Sanction Guidance Policy [102] describes the range of civil and criminal penalties that can be assessed against a candidate or a provider for noncompliance with this regulation. TSA does not publish a schedule for audits or inspections to enable candid reviews of flight training provider operations by the inspector. TSA believes that expanding the capability for providers to maintain their records electronically may mitigate the impact of audits and inspections.

3. Documenting Compliance

Comments: Many commenters felt it redundant to require a flight training provider to maintain a record already provided to TSA through the FTSP Portal and unfair to penalize a provider during an audit who did not have a hard copy of a record electronically available to both TSA and the provider online. Many 2018 commenters recommended that TSA accept information provided through the FTSP Portal as demonstration of their compliance with this regulation. They stated this would allow TSA to review records electronically and shift the burden of maintaining physical files and facilities or information technology systems from flight training providers to TSA. Some commenters recommended TSA expand its electronic storage capability to facilitate TSA and FAA compliance audits and reduce their employees' time and effort complying with a TSA audit.

Another commenter requested that TSA provide access to FAA authorities to verify citizenship as part of FAA's audits and inspections. Flight training providers and industry representatives stated that electronic recordkeeping would bring TSA into conformity with other regulatory agencies such as FAA and USCIS. A provider suggested TSA provide specific guidance providers can follow to demonstrate compliance. One commenter expressed frustration with the requirement to document whether or not a candidate has completed training.

TSA response: TSA auditors will accept either electronic records or physical records. TSA issues a unique electronic confirmation whenever a flight training provider uploads or enters new information through the FTSP Portal. Providers may present this electronic confirmation to demonstrate compliance with this regulation. Section 1552.15 of the final rule eliminates the requirement for hard-copy records if the records are retained electronically, whether through a provider's system or the FTSP Portal.

TSA provides access to the FTSP Portal to FAA, USCIS, DoD, and SEVP to facilitate their audits and inspections. Providers recording completion of training events facilitates audits and inspections by other government agencies.

TSA anticipates that flight training providers' use of the FTSP Portal for electronic recordkeeping will facilitate audits and inspections. Providers who do not use the FTSP Portal for recordkeeping must retain records for 5 years, in a form and manner acceptable to TSA, to demonstrate compliance. Compliance guidance is provided in the provider guide posted on the FTSP Portal. Section II.B.7 provides more details concerning this requirement.

E. Additional Comments Received in Response to 2018 Reopening

1. General Rulemaking Comments

Comments: In the 2018 comment period, many commenters expressed general support for the regulation and focused on TSA's specific requests for information and recommending improvements to the rule. Industry commenters suggested that TSA revise the final rule to (1) use simpler language; (2) reduce economic burdens and enhance security; and (3) consolidate and formalize notices and interpretations of the regulation issued since the IFR was published. Two commenters criticized the current program as a ''waste of time and money'' that harms the aviation industry and law enforcement.

One commenter recognized the importance of the FTSP in preventing terrorists from using aircraft to attack the United States and suggested that TSA use a ''risk-based approach'' to ''improve'' the IFR.

Another commenter felt that FTSP requirements, such as the STA process and recordkeeping, have resulted in a loss of business and that modifying these requirements could stimulate a return of non-U.S. citizen customers to U.S.-based flight training instruction.

An industry representative requested that TSA enable the capture of metrics from the information they supply to TSA, to help providers promote their business and boost their competitiveness in the world market. One commenter requested that TSA periodically publish the number of FTSP candidates.

TSA response: In response to these comments, TSA has made changes to the rule that are intended to strengthen elements of the program while mitigating many industry concerns. The final rule provides clarity on many of the requirements, codifies or otherwise consolidates all previously issued instructions and interpretations, and modifies requirements to significantly reduce the burden while meeting the security purpose of the rule. Through both the rule text and this preamble, as well as the use of the FTSP Portal, TSA has attempted to provide a more user-friendly regulatory program for industry, candidates, the general public, and government partners.

TSA is considering how to adapt the FTSP Portal to generate metrics, population data, and other operational data collected for flight training providers.

2. Recommending Against Requiring Flight Training Providers To Undergo an STA

Comments: In the 2018 request for comments, TSA requested feedback on whether the FTSP should require flight training providers to undergo an STA. As a result, TSA received many comments concerning the costs and benefits of extending the STA requirements to providers. Many commenters expressed reservations about the prospect, and others believed that requiring an STA should be implemented only for non-U.S. citizens employed by flight training providers.

A flight training provider asserted that enough security requirements should be in place to ensure that a provider employee does not pose a threat to aviation or national security. This individual doubted their employees would be involved in disqualifying offenses or would not be permitted to enter or remain in the United States. An industry representative opposed STAs for flight training providers because of

[102] *See https://www.tsa.gov/travel/frequently-asked-questions/how-was-penalty-amount-determined.*

the likelihood providers have undergone threat assessments under other U.S. Government programs.

A few commenters recognized that some providers could pose a threat. A commenter noted that each ''foreign instructor'' has access to simulators or aircraft without having undergone an STA. Another commenter noted that the majority of U.S. terrorist acts since 9/11 ''have been performed by people born in the USA.'' An industry representative proposed that every flight training provider employee be required to undergo an STA to ensure ''the general aviation flight training industry remains safe.''

A major flight training provider reminded TSA that a large part of its operations occurs overseas. Several foreign aircraft operators noted that they recognize efficiencies by allowing their pilots to train to FAA certification standards closer to where they operate. An industry representative requested that TSA ensure that flight training providers maintain the ability to conduct training toward FAA certificates and ratings at locations outside the United States.

A few commenters felt that non-U.S. citizens should not be allowed to participate in training from individual instructors certificated under 14 CFR part 61, and that the only non-U.S. citizens who should undergo an STA are those training with pilot schools or other institutions or businesses certificated under 14 CFR parts 121, 135, 141, or 142. An industry representative requested that TSA ensure that providers operating under either 14 CFR part 61 or part 141, or both, are permitted to provide flight training to non-U.S. citizens under TSA's regulations. To show their support for this regulation, industry representatives emphasized that all flight training providers, including independent CFIs, should comply with TSA regulations and ICE/SEVP regulations, as applicable.

Some commenters indicated that an STA for flight training providers could be warranted if TSA could provide examples of threats posed and actual occurrences supporting the imposition of this requirement on providers. One commenter suggested TSA require a TSA-approved Flight Training Provider Security Program for each flight training provider.

TSA response: As with the IFR, the final rule requires STAs only for candidates. The statute focuses on individuals who request training. Consistent with the statute, this rule is narrowly tailored to impose only those burdens on industry that are mandated by Congress, while maintaining or improving the current level of security.

Many flight training provider employees may also be subject to an STA under other TSA-regulated public trust programs such as 49 CFR part 1542 for airports and 49 CFR part 1544 for aircraft operators. Nonetheless, TSA considered imposing a new requirement that flight training provider employees undergo an STA under the provision in 49 U.S.C. 44939 as an ''other individual specified by the Secretary of Homeland Security.'' TSA decided that the net economic impact of the final rule should reduce burdens on industry, and that imposing an STA requirement on flight training providers would add more costs than other provisions of the final rule would reduce.

TSA is not pursuing the institution of flight training provider-specific security programs, either domestically or for flight training providers operating in international locations, because of the uniqueness of each flight training provider operation and because the costs required for TSA to develop and oversee more than 5,000 such programs appears to be prohibitive.

V. Rulemaking Analyses and Notices

A. Economic Impact Analyses

1. Regulatory Impact Analysis Summary

Changes to Federal regulations must undergo several economic analyses. First, E.O. 12866 of October 4, 1993 (Regulatory Planning and Review),[103] as supplemented by E.O. 13563 of January 21, 2011 (Improving Regulation and Regulatory Review) [104] and E.O. 14094 of April 6, 2023 (Modernizing Regulatory Review) [105] directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (RFA) [106] requires agencies to consider the economic impact of regulatory changes on small entities. Third, the Trade Agreement Act of 1979 [107] prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. Fourth, the UMRA [108] () requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation).[109]

2. Executive Orders 12866, 13563, and 14094 Assessment

Under the requirements of E.O. 12866, agencies must assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). These requirements were supplemented by E.O. 13563 and E.O. 14094, which emphasize the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

TSA summarizes the findings:

1. This final rule is a significant regulatory action under E.O. 12866. However, this final rule is not an economically significant rulemaking under the definition in section 3(f)(1) of E.O. 12866, as amended by E.O. 14094, because its annual effect on the economy does not exceed $200 million in any year of the analysis;

2. Under the Regulatory Flexibility Act of 1980, TSA is not required to perform a Regulatory Flexibility Analysis because it did not publish a proposed rule;

3. This final rule does not constitute a barrier to international trade as defined by the Trade Agreement Act of 1979; and

4. This final rule is not likely to result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation). Therefore, no actions were deemed necessary under the provisions of the UMRA.

As part of completing the final rule, TSA has prepared an analysis of the estimated costs and cost savings for both the IFR baseline and overall cost of the rule (using the pre-IFR baseline). The costs and cost savings are summarized in the following paragraphs and in the OMB Circular A–4 Accounting Statement.

The IFR baseline provides an accounting of the final rule changing three IFR requirements: (1) moving from an *event-based* to a *time-based* STA; (2) implementing a TSA-sponsored

[103] 58 FR 51735 (Oct. 4, 1993).

[104] 76 FR 3821 (Jan. 21, 2011).

[105] 88 FR 21879 (Apr. 11, 2023).

[106] Public Law 96–354 (94 Stat. 1164; Sept. 19, 1980), codified at 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[107] Public Law 96–39 (93 Stat. 144; July 26, 1979), codified at 19 U.S.C. 2531–2533.

[108] Public Law 104–4 (109 Stat. 66; Mar. 22, 1995), codified at 2 U.S.C. 1531–1538.

[109] *Id.*

electronic recordkeeping system; and (3) reducing the frequency of security awareness training. The IFR baseline also provides an accounting of two new costs introduced under the final rule: (a) designation of a Security Coordinator; and (b) familiarization with the final rule. TSA's key reasons for implementing cost changes and the rationale for each change are:

- *Implementation of a time-based STA.* As with the IFR, the final rule requires candidates to apply to TSA for an STA, and the flight training provider must notify TSA of each training event. The final rule, however, allows a candidate to receive a single STA that could be valid up to 5 years. Under the IFR, an STA was required each time a candidate requested flight training. For the final rule, the $140 *time-based* fee replaces the IFR's multiple, *event-based* STA fees. In addition, this change to a *time-based* STA reduces candidates' time burden for training event requests. In the final rule, TSA also includes a $125 reduced fee for candidates who may already have a comparable STA. Lastly, the final rule continues to offer and expand expedited processing, at no additional fee, for eligible candidates that request completion of their STA within 5 business days.
- *Implementation of a TSA-sponsored electronic recordkeeping system.* To facilitate compliance with final rule requirements, the final rule allows flight training providers to use the FTSP portal if they wish to do so for electronic recordkeeping of candidate STA and flight training event requests, whereas the IFR required paper records. TSA calculated three estimates related to this new resource—first, cost savings for providers from reduced physical storage costs; second, less time burden for providers preparing physical records for compliance inspections; and, third, cost savings for TSA from reduced time and other associated costs required for physical records inspections.
- *Reduced frequency of security awareness training.* The final rule allows providers to administer security awareness training for their employees at least every 2 years, whereas the IFR required this training to occur annually. TSA estimates the time-burden savings for providers resulting from the reduced frequency of security awareness training.
- *Implementation of a Security Coordinator requirement.* The final rule introduces a new requirement for providers to designate a Security Coordinator and provide their contact information to TSA. TSA estimates the time-burden cost for this new requirement to be between approximately $16 to $24 per coordinator.

In addition to the IFR baseline, the change between the final rule and the IFR, TSA also presents the overall cost of the rule using the pre-IFR baseline. In completing this final rule, TSA updated the costs, data points, and assumptions of the original IFR published in 2004 and estimated costs of IFR requirements that were previously unaccounted for in the accompanying analysis. The final rule retains these requirements from the IFR, including: (1) flight training candidates are required to submit fingerprints to TSA; (2) flight training candidates and providers are required to create and maintain FTSP portal accounts; (3) flight training providers are required to submit a candidate's photograph to TSA; (4) flight training providers are required to update and maintain refresher security awareness training for employees; and (5) TSA must conduct regulatory compliance inspections of all flight training providers.

Table 8 below presents the annualized costs and cost savings associated with implementing all final rule requirements relative to the pre-IFR baseline over the 10-year period of analysis (2024–2033).

The 10-year annualized difference of $14.37 million, presented in table 8, under the pre-IFR baseline differs from the $14.60 million annualized net cost savings presented in table 9. The later compares the net impact of the final rule to the IFR baseline. As part of this final rule, TSA analyzed two baselines, to estimate the costs relative to the respective baselines. For two of the requirements, the start year 2005 (year 1 of the IFR) versus 2024 (year 1 of the final rule) affected the recurrent generations of inspections and number of new providers, which accounts for the small difference.

TABLE 8—ANNUALIZED 10-YEAR COST OF THE IFR WITH UPDATED COSTS VS. FINAL RULE BY REQUIREMENT

[2022 Dollars]

Final rule (FR requirements	49 CFR	IFR with updated costs and FR comparison (discounted at 7 percent; $ millions)			Description
		Updated IFR costs	FR costs	10-Year difference	
Compliance Inspections Time.	§ 1503.207	$8.65	$1.49	($7.15)	Under the IFR and FR, each flight training provider must allow TSA to enter and conduct any audits, assessments, tests, or inspections of operations, and to view, inspect, and copy records. Cost savings result from a reduction in the number of hours spent on TSA on-site inspections.
Security Awareness Training.	§ 1552.13	8.09	5.03	(3.06)	Under the IFR and FR, providers must update and maintain refresher training to include but not limited to new security measures and procedures implemented by provider, security incidents, and any new TSA guidelines or recommendations. Providers must ensure that all employees complete security awareness training. The final rule changes the requirement from annual to biennial.
Recordkeeping	§ 1552.15 and § 1552.17	2.08	0.05	(2.03)	Cost savings derived from electronic recordkeeping.

TABLE 8—ANNUALIZED 10-YEAR COST OF THE IFR WITH UPDATED COSTS VS. FINAL RULE BY REQUIREMENT—Continued

[2022 Dollars]

Final rule (FR requirements	49 CFR	IFR with updated costs and FR comparison (discounted at 7 percent; $ millions)			Description
		Updated IFR costs	FR costs	10-Year difference	
FTSP Portal Accounts.	§ 1552.17	0.16	0.16		Under the IFR and FR, flight training provider and candidates must create and maintain portal accounts to use the FTSP portal. Providers can also use the portal for electronic record-keeping.
Fingerprinting	§ 1552.31	2.59	2.59		Under the IFR and FR, candidates are required to submit fingerprints to TSA in order for TSA to initiate the STA. Fingerprints must be collected at a TSA-approved location.
Candidate Security Threat Assessment Fees.	§ 1552.39	5.12	2.45	(2.67)	All candidates must apply for an STA. Under the IFR, the candidate had to get an STA each time the candidate requested flight training. Costs under the IFR were based on Category 1, 2, and 3 training events paying a fee of $130 per event and Category 4 paying a fee of $70 per event. Under the final rule, the candidate applies for one STA that could be valid for up to 5 years, for a fee of $140. Under the final rule, a candidate with a comparable STA may pay a reduced fee of $125.
Notification and Processing of Flight Training Events.	§ 1552.51	1.44	1.12	(0.32)	The flight training provider must notify TSA through the FTSP portal about all proposed and actual flight training events, whether or not that training is intended to result in certification.
Candidate Photograph Submission.	§ 1552.51	0.04	0.04		Under the IFR and FR, providers must take a photograph of the candidate upon the candidate's arrival for each training event. Photographs must be uploaded to the FTSP portal.
Designation of Security Coordinator.	§ 1552.9		0.13	0.13	The FR implements the new requirement for the provider to assign a Security Coordinator to serve as a security liaison with TSA. Costs include initial and updated submissions from Security Coordinator turnover.
Familiarization with Final Rule.	§ 1552		0.73	0.73	TSA assumes a time burden cost for familiarization with the final rule.
Total		28.17	13.80	(14.37)	

Note: Totals may not add due to rounding.

When estimating the cost of a rulemaking, agencies typically estimate future expected costs imposed by a regulation over a period of analysis. For this final rule, TSA uses a 10-year period of analysis to estimate the costs and cost savings, compared to the IFR baseline, to flight training providers, candidates, and TSA. TSA provides an analysis of costs and cost savings under the final rule, compared to the IFR baseline, as well as an overall cost of the rule using a pre-IFR baseline savings in the Regulatory Impact Assessment (RIA) placed in the docket.

Using the IFR baseline, TSA estimates the net impacts of the changes in this final rule in comparison to the costs of the IFR. TSA estimates the 10-year total net impact of the final rule, compared to the IFR baseline, to be a net cost savings of $102.56 million discounted at seven percent. The annualized net impact of the final rule, compared to the IFR baseline, is $14.60 million discounted at seven percent.

TSA estimates the final rule cost savings, compared to the IFR baseline, to be $108.57 million over 10 years, discounted at seven percent. The estimated new costs of the final rule, compared to the IFR baseline is $6.01 million over 10 years, discounted at seven percent. Combining the cost savings and new costs of the final rule, the resulting net cost savings, compared to the IFR baseline, is $102.56 million, over 10 years, discounted at 7 percent. TSA's analysis summarizes the net impacts of the new costs and costs

savings of the final rule to be borne by three parties: flight training providers, flight training candidates, and TSA. As displayed in table 9 below, TSA estimates the 10-year total net impact of this final rule, compared to the IFR baseline, to be a cost savings of $149.72 million undiscounted, $126.36 million discounted at three percent, and $102.56 million discounted at seven percent.

TABLE 9—FINAL RULE'S NEW COST AND COST SAVINGS BY ENTITY TYPE AS COMPARED TO THE IFR BASELINE

[2024–2033; $ millions]

Year	Costs to flight training providers	Cost savings to flight training providers	Cost savings to candidates	TSA cost savings	Total final rule net impact		
					Undiscounted	Discounted at 3%	Discounted at 7%
	a	b	c	d	e = a − Σb,c,d		
1	$4.51	$11.54	$0.90	$0.73	($8.65)	($8.40)	($8.09)
2	0.27	9.83	3.34	0.17	(13.07)	(12.32)	(11.42)
3	0.28	12.91	3.38	0.73	(16.75)	(15.33)	(13.67)
4	0.28	10.15	3.43	0.22	(13.52)	(12.01)	(10.31)
5	0.29	13.69	3.49	0.73	(17.62)	(15.20)	(12.57)
6	0.30	10.57	1.50	0.26	(12.03)	(10.08)	(8.02)
7	0.30	14.45	3.55	0.74	(18.43)	(14.99)	(11.48)
8	0.31	11.07	3.65	0.30	(14.70)	(11.61)	(8.56)
9	0.32	15.20	3.76	0.75	(19.39)	(14.86)	(10.55)
10	0.33	11.64	3.89	0.34	(15.54)	(11.56)	(7.90)
Total	7.19	121.05	30.90	4.96	(149.72)	(126.36)	(102.56)
Annualized						(14.81)	(14.60)

Note: Totals may not add due to rounding.

TSA breaks out the ten-year total cost *savings,* presented in table 9, by *savings* to flight training candidates, flight training providers, and TSA. TSA estimates the flight training candidates ten-year cost *savings* to be $30.90 million undiscounted, $25.98 million discounted at three percent, $20.99 million discounted at seven percent. These candidate costs savings represent the ultimate effect of fewer STAs conducted by TSA. While TSA no longer has to pay for additional STA's ($18.74 million over 10 years, discounted at seven percent) these savings are transferred to candidates in the form of reduced fees. Candidate cost savings could have an important distributional effect if the set of candidates are disproportionately represented by certain groups of people. TSA sums the $18.74 million fee transfer, discounted at seven percent, with the $2.25 million, discounted at seven percent, for time savings to estimate a total cost *savings* to candidates of $20.99 million, discounted at seven percent. Next, TSA estimates then ten-year cost *savings* to flight training providers to be $121.05 million undiscounted, $102.76 million discounted at three percent, and $84.08 million discounted at seven percent. Lastly, TSA estimates the ten-year cost *savings* to TSA to be $4.96 million undiscounted, $4.24 million discounted at three percent, and $3.50 million discounted at seven percent.

Table 10 displays the two new cost categories introduced and cost savings under the final rule, compared to the IFR baseline, by rule component.

TABLE 10—NEW COSTS AND COST SAVINGS BY FINAL RULE COMPONENT AS COMPARED TO THE IFR BASELINE

[2024–2033; $ millions]

Year	Cost savings					Costs		Net impact		
	STA structure change fee	STA structure change time burden	Record-keeping	Security awareness training	Inspections time	Familiarity	Security coordinators	Undiscounted	Discounted at 3%	Discounted at 7%
	a	b	c	d	e	f	g	h = Σf,g − Σa,b,c,d,e		
1	$0.59	$0.31	$1.32		$10.95	$4.01	$0.50	($8.65)	($8.40)	($8.09)
2	3.03	0.31	1.92	$5.59	2.50	0.20	0.06	(13.07)	(12.32)	(11.42)
3	3.07	0.31	1.95	0.74	10.95	0.21	0.07	(16.75)	(15.33)	(13.67)
4	3.12	0.32	1.98	5.22	3.16	0.21	0.07	(13.52)	(12.01)	(10.31)
5	3.17	0.32	2.02	1.37	11.03	0.22	0.07	(17.62)	(15.20)	(12.57)
6	1.18	0.32	2.06	4.98	3.79	0.23	0.07	(12.03)	(10.08)	(8.02)
7	3.23	0.32	2.10	1.92	11.17	0.23	0.07	(18.43)	(14.99)	(11.48)
8	3.32	0.33	2.14	4.82	4.40	0.24	0.07	(14.70)	(11.61)	(8.56)
9	3.43	0.33	2.19	2.39	11.37	0.24	0.08	(19.39)	(14.86)	(10.55)
10	3.55	0.34	2.24	4.75	4.99	0.25	0.08	(15.54)	(11.56)	(7.90)
Total	27.68	3.22	19.92	31.78	74.31	6.05	1.14	(149.72)	(126.36)	(102.56)
Annualized									(14.81)	(14.60)

Note: Totals may not add due to rounding.

The primary benefit of the final rule, compared to the IFR baseline, is the replacement of the IFR's *event-based* STA approach with a *time-based* STA approach. The change will reduce STA-related time burdens for flight training candidates and flight training providers and reduce fee expenses for the vast majority of candidates. TSA expects this change to reduce delays and fees, assist in tracking of candidate training events, and support the portability of a candidate's STA between providers.

In completing this final rule, TSA updated the accounting of requirements of the 2004 IFR to estimate the overall cost of the rule using the pre-IFR baseline. Table 11 presents the total cost of the rule from 2005 through 2033, covering 29 years of analysis. This covers the cost of the IFR with updated costs from 2005 through 2023 and the cost of the IFR, less the net cost savings of the final rule, compared to the no action baseline, from 2024 through 2033. The total cost to flight training candidates, flight training providers, and TSA would be $579.43 million undiscounted, $699.05 discounted at three percent, and $957.79 million discounted at seven percent.

TABLE 11—TOTAL COST OF THE RULE INCORPORATING IFR WITH UPDATED COSTS (2005–2023) AND FINAL RULE'S NET COST SAVINGS (2024–2033)

[$ Millions, 2022 dollars]

Year	Cost to candidates	Cost to providers	Cost to TSA	d = Σa,b,c		
	a	b	c	Total undiscounted	Discounted at 3%	Discounted at 7%
2005 18	$8.52	$18.94	$1.80	$29.25	$49.80	$98.88
2006 17	8.26	8.97	0.45	17.68	29.23	55.86
2007 16	8.19	13.89	1.80	23.88	38.32	70.50
2008 15	8.13	9.57	0.56	18.26	28.45	50.38
2009 14	9.63	12.96	1.82	24.40	36.91	62.92
2010 13	9.55	8.98	0.66	19.19	28.17	46.23
2011 12	9.47	13.32	1.84	24.63	35.11	55.46
2012 11	9.40	9.62	0.76	19.77	27.37	41.62
2013 10	9.33	13.74	1.87	24.94	33.51	49.05
2014 9	9.27	10.27	0.85	20.39	26.61	37.49
2015 8	9.22	14.21	1.91	25.33	32.09	43.52
2016 7	9.17	10.94	0.95	21.05	25.89	33.81
2017 6	9.13	14.72	1.96	25.81	30.82	38.73
2018 5	9.10	11.63	1.04	21.77	25.23	30.53
2019 4	9.07	15.29	2.01	26.37	29.68	34.57
2020 3	9.06	12.34	1.13	22.53	24.62	27.60
2021 2	9.05	15.90	2.08	27.03	28.67	30.94
2022 1	9.05	13.09	1.23	23.37	24.07	25.00
2023 0	9.06	16.57	2.14	27.77	27.77	27.77
2024 1	8.12	11.91	2.18	22.21	21.56	20.76
2025 2	5.71	2.27	0.52	8.50	8.01	7.43
2026 3	5.72	7.32	2.18	15.22	13.93	12.42
2027 4	5.72	3.05	0.65	9.42	8.37	7.19
2028 5	5.78	7.12	2.20	15.10	13.02	10.76
2029 6	7.80	3.74	0.77	12.31	10.31	8.20
2030 7	5.85	7.03	2.22	15.10	12.28	9.40
2031 8	5.87	4.35	0.89	11.11	8.77	6.47
2032 9	5.88	7.02	2.26	15.17	11.63	8.25
2033 10	5.94	4.92	1.01	11.87	8.83	6.03
Total	234.03	303.66	41.74	579.43	699.05	957.79

Next, TSA presents the total cost of the rule if TSA did not implement this final rule. While all requirements from the IFR would be retained, the costs in the table below would not capture the cost *savings* derived, compared to the IFR baseline. This includes the STA fee and time reduction, electronic recordkeeping, less frequent security awareness training, and reduction in inspection burdens. Furthermore, absent implementation of this final rule, TSA would not introduce a requirement to designate Security Coordinators and for providers to familiarize themselves with the changes between the final rule and IFR. Table 12 covers both the IFR period (2005—2023) and 10-years into the future (2024—2033) similar to the final rule period of analysis. The total cost to flight training candidates, flight training providers, and TSA would be $728.86 million undiscounted, $824.40 discounted at three percent, and $1,058.71 million discounted at seven percent.

TABLE 12—TOTAL COST OF THE IFR RULE (IFR; (2005–2033), ABSENT IMPLEMENTATION OF THE FINAL RULE

[$ Millions, 2022 dollars]

Year	Cost to candidates	Cost to providers	Cost to TSA	Total undiscounted	Discounted at 3%	Discounted at 7%
2005 18	$8.52	$18.94	$1.80	$29.25	$49.80	$98.88
2006 17	8.26	8.97	0.45	17.68	29.23	55.86

TABLE 12—TOTAL COST OF THE IFR RULE (IFR; (2005–2033), ABSENT IMPLEMENTATION OF THE FINAL RULE—Continued

[$ Millions, 2022 dollars]

Year	Cost to candidates	Cost to providers	Cost to TSA	Total undiscounted	Discounted at 3%	Discounted at 7%
2007 16	8.19	13.89	1.80	23.88	38.32	70.50
2008 15	8.13	9.57	0.56	18.26	28.45	50.38
2009 14	9.63	12.96	1.82	24.40	36.91	62.92
2010 13	9.55	8.98	0.66	19.19	28.17	46.23
2011 12	9.47	13.32	1.84	24.63	35.11	55.46
2012 11	9.40	9.62	0.76	19.77	27.37	41.62
2013 10	9.33	13.74	1.87	24.94	33.51	49.05
2014 9	9.27	10.27	0.85	20.39	26.61	37.49
2015 8	9.22	14.21	1.91	25.33	32.09	43.52
2016 7	9.17	10.94	0.95	21.05	25.89	33.81
2017 6	9.13	14.72	1.96	25.81	30.82	38.73
2018 5	9.10	11.63	1.04	21.77	25.23	30.53
2019 4	9.07	15.29	2.01	26.37	29.68	34.57
2020 3	9.06	12.34	1.13	22.53	24.62	27.60
2021 2	9.05	15.90	2.08	27.03	28.67	30.94
2022 1	9.05	13.09	1.23	23.37	24.07	25.00
2023 0	9.06	16.57	2.14	27.77	27.77	27.77
2024 1	9.02	13.87	1.33	24.21	23.51	22.63
2025 2	9.05	17.28	2.22	28.56	26.92	24.94
2026 3	9.10	14.68	1.43	25.20	23.06	20.57
2027 4	9.15	18.04	2.30	29.50	26.21	22.51
2028 5	9.27	15.53	1.53	26.34	22.72	18.78
2029 6	9.31	18.86	2.39	30.56	25.60	20.37
2030 7	9.40	16.43	1.64	27.47	22.34	17.11
2031 8	9.51	19.74	2.49	31.74	25.06	18.47
2032 9	9.64	17.38	1.75	28.77	22.05	15.65
2033 10	9.83	20.67	2.59	33.09	24.62	16.82
Total	264.92	417.42	46.51	728.86	824.40	1,058.71

TSA then compares the 10-year cost, from 2024 to 2033, of the IFR with updated costs and final rule in table 13. As part of completing this final rule, TSA updated the IFR costs to include all requirements outlined in the 2004 IFR. The first column estimates what the future expected costs of the IFR would be over the next 10 years (without any changes from this final rule). The second column estimates the future expected costs under the final rule over the same 10-year period. The final rule cost column represents the total cost of the IFR less the net savings from the final rule.

TABLE 13—10-YEAR COMPARISON OF THE IFR WITH UPDATED COSTS AND FINAL RULE

[$ Millions, discounted at 7 percent, 2022 dollars]

Year	IFR with updated costs	Final rule cost	Difference
1	$22.63	$20.76	($1.87)
2	24.94	7.43	(17.52)
3	20.57	12.42	(8.15)
4	22.51	7.19	(15.32)
5	18.78	10.76	(8.01)
6	20.37	8.20	(12.16)
7	17.11	9.40	(7.70)
8	18.47	6.47	(12.01)
9	15.65	8.25	(7.40)
10	16.82	6.03	(10.79)
Total	197.84	96.92	(100.92)

3. OMB A–4 Statement

The OMB A–4 Accounting Statement shown in table 14 below presents the annualized costs and qualitative benefits of the final rule under the IFR baseline. TSA also presents a second OMB A–4 Accounting Statement (table 15), which covers the annualized costs and qualitative benefits of the entire FTSP program beginning from the IFR (2005) through the end of the final rule period (2033).[110] All monetary values are presented in 2022 dollars.

[110] TSA, as part of this rule, analyzes two baselines. Table 14 presents the net impact of the final rule to the IFR baseline over the 10-year period of 2024 to 2033. Table 15 reflects 29 year annualized with a start year of 2005 (year 1 of the

TABLE 14—OMB A–4 ACCOUNTING STATEMENT FOR THE IFR BASELINE (2024–2033)
[In millions, 2022 dollars]

Category	Estimates			Units			Notes and source citation (final rule RIA, preamble, etc.)
	Primary estimate	Low estimate	High estimate	Year dollar	Discount rate (%)	Period covered (years)	
Benefits:							
Annualized	N/A	N/A	N/A	N/A	7	N/A	*See* FR RIA.*
	N/A	N/A	N/A	N/A	3	N/A	
Qualitative	In addition to regulatory relief, the final rule results in additional benefits which are derived from improved standardization of the vetting process, including security enhancements through the implementation of Rap Back for the CHRC portion of the STA. Furthermore, TSA extends the duration of STAs for up to 5 years, improving comparability amongst STA programs.						
Costs:							
Annualized	($14.60)	N/A	N/A	2022	7	10	*See* FR RIA*.
	(14.81)	N/A	N/A	2022	3	10	
Qualitative	N/A						
Transfers:							
Federal Annualized Monetized ($ millions/year)	N/A	N/A	N/A	N/A	7	N/A	
	N/A	N/A	N/A	N/A	3	N/A	
From/To	From:	N/A		To:	N/A		
Other Annualized Monetized ($ millions/year)	N/A	N/A	N/A	N/A	7	N/A	
	N/A	N/A	N/A	N/A	3	N/A	
From/To	From:	N/A		To:	N/A		
Effects:							
State, Local, and/or Tribal Government	None						Not quantified.
Small Business	No Final Regulatory Flexibility Analysis (FRFA)						
Wages	None						
Growth	Not measured						

Note: Totals may not add due to rounding.
*The RIA is posted on the public docket at *https://www.regulations.gov/docket?D=TSA-2004-19147*.

TABLE 15—OMB A–4 ACCOUNTING STATEMENT FOR OVERALL COST OF THE RULE (2005–2033)
[In millions, 2022 dollars]

Category	Estimates			Units			Notes and source citation (final rule RIA, preamble, etc.)
	Primary estimate	Low estimate	High estimate	Year dollar	Discount rate (%)	Period covered (years)	
Benefits:							
Annualized	N/A	N/A	N/A	N/A	7	N/A	
	N/A	N/A	N/A	N/A	3	N/A	
Qualitative	The primary benefit of FTSP is the increased protection of U.S. citizens and property from acts of terrorism. The requirements under the IFR and final rule are proposed to ensure that non-U.S. citizen flight training candidates do not pose a risk to the U.S. This addresses the security vulnerability which was exploited in the 9/11 attacks with the non-U.S. citizen hijackers receiving flight training from U.S. flight training providers and then using the knowledge and experienced gained to hijack aircraft and use them to commit acts of terrorism.						
Costs:							
Annualized	$78.01	N/A	N/A	2022	7	29	*See* FR RIA.*
	36.43	N/A	N/A	2022	3	29	
Qualitative	N/A						
Transfers:							
Federal Annualized Monetized ($ millions/year)	N/A	N/A	N/A	N/A	7	N/A	

IFR), versus 2024 (year 1 of the final rule), whose different timeline affects recurrent inspection and new providers calculations that results in a small difference between the two tables. When comparing annualized cost of both baselines, discounted at 7 percent, over the same 10-year period (2024–2033), the annualized cost of the no-action baseline (presented in table 14) remains unchanged at $14.60 million while the annualized cost the pre-IFR baseline (presented in table 15) would be $14.37 million.

TABLE 15—OMB A–4 ACCOUNTING STATEMENT FOR OVERALL COST OF THE RULE (2005–2033)—Continued
[In millions, 2022 dollars]

Category	Estimates			Units			Notes and source citation (final rule RIA, preamble, etc.)
	Primary estimate	Low estimate	High estimate	Year dollar	Discount rate (%)	Period covered (years)	
	N/A	N/A	N/A	N/A	3	N/A	
From/To:	From:	N/A		To:	N/A		
Other Annualized Monetized ($ millions/year)	N/A	N/A	N/A	N/A	7	N/A	
	N/A	N/A	N/A	N/A	3	N/A	
From/To:	From:	N/A		To:	N/A		
Effects:							
State, Local, and/or Tribal Government	None						
State, Local, and/or Tribal Government	None						
Small Business	No Final Regulatory Flexibility Analysis (FRFA)						Not quantified.
Wages	None						
Growth	Not measured						

Note: Totals may not add due to rounding.
*The RIA is posted on the public docket at *https://www.regulations.gov/docket?D=TSA-2004-19147*.

4. Alternatives Considered

In addition to the final rule, TSA also considered three regulatory alternatives compared to the IFR baseline. The first alternative (Alternative 1) includes cost-savings resulting from *time-based* candidate STAs, biennial employee security awareness training, and electronic recordkeeping. Alternative 1 removes the new requirement to designate Security Coordinators. TSA did not choose Alternative 1 over the final rule provisions because the opportunity costs to designate a Security Coordinator per provider would be approximately $16 to $24. TSA believes the benefits of having a Security Coordinator as a primary contact with TSA and who can address security related issues outweigh this low-cost burden. Furthermore, the designation of a Security Coordinator will support TSA in scheduling and managing audits and inspections, and bring FTSP in synchronization with other aviation programs, including the Airport Operator Standard Security Program, which have similar Security Coordinator requirements.

The second alternative (Alternative 2) would maintain the IFR or baseline STA requirements for a candidate to pay for an STA each time that candidate requests flight training. Alternative 2 would allow for electronic recordkeeping and security awareness training every 2 years, and would not require the designation of the Security Coordinator. This alternative does not include the regulatory relief resulting from the switch to *time-based* candidate STAs of approximately $20.99 million annually discounted at seven percent. TSA does not endorse Alternative 2 because it is contrary to the top recommendation from the ASAC to move from an *event-based* STA to a *time-based* STA. Maintaining an *event-based* STA commands a 10-year cost of $46.06 million, discounted at 7 percent, over the final rule. While the move from *event-based* STAs would reduce the number of STAs for returning flight training candidates, the level of security remains unchanged as a result of TSA's adoption of continuous vetting methods, including the use of the Rap Back program.

The third alternative (Alternative 3) would mirror all the changes under the final rule with the exception of the employees' refresher security awareness training. Under this alternative, the training would be required triennially. Alternative 3 would still result in cost savings through the adoption of a *time-based* STA and adoption of electronic recordkeeping. TSA does not endorse Alternative 3, despite greater cost savings, as it does not align with industry's recommendation to bring employees' security awareness training in line with other flight industry required training, including the FAA's biennial flight reviews. Table 16 below compares costs of the alternatives using a 'no action' baseline.

TABLE 16—COMPARISON OF NET IMPACTS BETWEEN FINAL RULE AND ALTERNATIVES
[IFR baseline; 2024–2033]

Alternative	Requirements	10-Year cost ($ millions); discounted at 7 percent			
		Candidates/ providers	TSA	Total cost	Difference from FR
Final Rule	Migration to time-based STAs; allows electronic recordkeeping and security awareness training every 2 years; adds new designation of Security Coordinators.	($99.06)	($3.50)	($102.56)	N/A
Alternative 1	Provisions of final rule but removes new requirement of designation of Security Coordinators.	(99.95)	(3.50)	(103.45)	(0.90)
Alternative 2	Maintaining training event based STAs, while allowing electronic recordkeeping; and removes designation of Security Coordinators.	(78.97)	(3.50)	(82.47)	20.09

TABLE 16—COMPARISON OF NET IMPACTS BETWEEN FINAL RULE AND ALTERNATIVES—Continued
[IFR baseline; 2024–2033]

Alternative	Requirements	10-Year cost ($ millions); discounted at 7 percent			
		Candidates/ providers	TSA	Total cost	Difference from FR
Alternative 3	Provisions of final rule but changes the frequency of employee security awareness training to a triennial cycle.	(105.44)	(3.50)	(108.94)	(6.38)

Note: Totals may not add due to rounding.

5. Regulatory Flexibility Act Assessment

The RFA was enacted by Congress to ensure that small entities (small businesses, small not-for-profit organizations, and small governmental jurisdictions) are not unnecessarily or disproportionately burdened by Federal regulations. The RFA requires agencies to review rules to determine whether they have ''a significant economic impact on a substantial number of small entities.'' Section 603(a) of the RFA requires that agencies prepare and make available for public comment an initial RFA whenever the agency is required by law to publish a general notice of proposed rulemaking. However, 49 U.S.C. 44939 required TSA to promulgate an IFR implementing its requirements. TSA is not required to perform a final regulatory flexibility analysis, because it was not ''required by [5 U.S.C. 553] or any other law to publish a general notice of proposed rulemaking.'' TSA did, however, estimate additional costs resulting from this final rule's new requirement for designation of Security Coordinators and for providers to familiarize themselves with the requirements of the final rule in its regulatory evaluation. *See* section I.B.1. for a discussion of statutory authorities pertinent to the IFR and the final rule.

6. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that the standards constitute the basis for U.S. standards. TSA has assessed the potential effects of this rule and determined that the rule imposes the same costs on domestic and international entities and thus has a neutral trade impact.

7. Unfunded Mandates Reform Act Assessment

The UMRA does not apply to a regulatory action in which no notice of proposed rulemaking is published, as is the case in this rulemaking action. Accordingly, TSA has not prepared a statement under the UMRA.

B. Paperwork Reduction Act

The PRA requires Federal agencies to consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of 44 U.S.C. 3507(d), obtain approval from the OMB for each collection of information it conducts, sponsors, or requires through regulations.[111]

OMB approved the information collection request for the IFR, Flight Training for Aliens and Other Designated Individuals, under OMB Control No. 1652–0021. This final rule contains a new information collection activity for Security Coordinators to provide their contact information to TSA. Accordingly, TSA has submitted the following information requirements to OMB for its review. The Supporting Statement for this information collection request is available in the docket for this rulemaking.

Title: Flight Training Security Program

Summary: This final rule requires the following information collections:

First, prior to taking flight training, the non-U.S. citizen flight training candidate is required to submit their biographic and biometric information to TSA to conduct an STA. The candidate also must keep their biographical information current in their FTSP account in order to maintain their Determination of Eligibility. The final rule will change the frequency in which candidates apply for STAs from each time there is a request for flight training required by the IFR to one STA that will last up to 5 years. These changes will save candidates from paying STAs fees each time they request flight training and will save them an increment of time formerly required for each training event notification because candidates no longer provide these notifications to TSA. These changes also will result in a reduction in the final rule's information collection hour burden and a reduction in costs from multiple STA fees.

Second, the final rule maintains recordkeeping requirements necessary for TSA to verify that flight training providers ensured their candidates had appropriate STAs, confirmed the citizenship or nationality status of each flight student, and conducted employee security awareness training. The final rule will allow for records that were previously only allowed to be stored in hard copy to be stored electronically, creating further cost savings from reduced physical storage costs.

Third, the final rule adds a new collection of information for each provider to submit information for their Security Coordinator. This new requirement for a Security Coordinator supports communications with TSA concerning intelligence information, security related activities, and incident or threat response with appropriate law enforcement and emergency response agencies. TSA has added a burden estimate to the collection for this activity.

Fourth, the final rule may allow TSA inspectors to reduce time spent inspecting paper records, because records may be electronically stored on the FTSP portal. TSA's estimate includes the updated TSA inspection time burden.

Respondents (including number of): There are two categories of respondents: candidates and flight training providers. TSA estimates there would be 58,069 flight training candidates over a 3-year period, beginning on the effective date of the final rule. TSA estimates there are approximately 4,206 flight training providers who actively provide flight training to candidates, U.S. citizens, and U.S. nationals, and 19,738 flight training

[111] Public Law 96–511 (94 Stat. 2812; Dec. 11, 1980), as codified at 44 U.S.C. 3501 *et seq.*

providers who exclusively train U.S. citizens and U.S. nationals.

Frequency: Under the IFR, a candidate applied for an STA prior to each flight training event. Thus, the frequency varied by candidate. Under the final rule, the STA frequency is reduced from every time a candidate trains (*event-based*) to once every 5 years (*time-based*). The provider is still required to notify TSA of each training event. Providers must also maintain an employees' security awareness training record; however, this training is now required to be conducted every 2 years for each covered employee, as opposed to the IFR's requirement that this training be conducted annually. The final rule allows for electronic recordkeeping of these records using the FTSP portal.

Annual Burden Estimate: The final rule's average yearly burden for candidate flight training event notifications, Security Coordinator designations, recordkeeping of candidates' flight training requests, and recordkeeping of employee security awareness training, is estimated to be 93,915 responses and 33,594 hours. TSA estimates the annual hourly cost burden to be $1.47 million. TSA estimates annual fees of $2.71 million for this collection to cover the Federal burden for administering the STAs. Table 17 below displays the annual number of responses and hours per information collection activity.

TABLE 17—PRA INFORMATION COLLECTION RESPONSES AND BURDEN HOURS

Collection activity	Responses			Total responses	Average annual responses	Time burden per response (hours)	Total hours	Average annual hours
	Year 1	Year 2	Year 3					
Security Coordinator Submission	32,097	4,120	4,225	40,442	13,481	0.0250	10,110	3,370
Candidate Training Requests (with new or renewing STA)	30,847	13,611	13,611	58,069	19,356	0.7500	43,552	14,517
Candidate Training Requests (with existing STA)	14,329	31,643	31,794	77,766	25,922	0.5833	45,363	15,121
Employee Security Awareness Training Recordkeeping	51,002	6,768	47,699	105,469	35,156	0.0167	1,758	586
Total	.....	.....	.....	281,745	93,915	.....	100,783	33,594

Note: Totals may not add due to rounding.

C. Privacy Act

The FTSP Portal stores and protects information in accordance with the Privacy Act and NARA regulations and schedules. Personally identifiable information may only be shared in accordance with DHS/TSA's PIA. The PIA is updated whenever there is a change to how PII is handled or what PII is being collected and/or retained. The current PIA was published July 28, 2014.[112]

The FTSP system covers the following categories of designated individuals:

- Other individuals who are connected to the transportation industry for whom DHS/TSA conducts STAs to ensure transportation security.
- Non-U.S. citizens/nationals or other individuals designated by DHS/TSA who apply for flight training or recurrent training.
- Individuals who are owners, operators, or directors of any transportation mode facilities, services, or assets.

D. Executive Order 13132 (Federalism)

E.O. 13132 of August 4, 1999 (Federalism), requires TSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' The phrase ''policies that have federalism implications'' is defined in this E.O. to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

TSA has analyzed this rule under the principles and criteria of E.O. 13132 and has determined that this action does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

E. Environmental Analysis

TSA has reviewed this rule for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that this action would not have a significant effect on the human environment.

F. Energy Impact Analysis

TSA has assessed the energy impact of this rule in accordance with the Energy Policy and Conservation Act (EPCA),[113] and has determined that this rulemaking is not a major regulatory action under the provisions of EPCA.

List of Subjects

49 CFR Part 1500

Air carriers, Air transportation, Aircraft, Airports, Buses, Hazardous materials transportation, Law enforcement officers, Maritime carriers, Mass transportation, Railroad safety, Railroads, Reporting and recordkeeping requirements, Security measures, Transportation, Vessels.

49 CFR Part 1503

Administrative practice and procedure, Investigations, Law enforcement, Penalties.

49 CFR Part 1515

Explosives, Harbors, Hazardous materials transportation, Maritime security, Motor carriers, Seamen, Security measures, Vessels.

49 CFR Part 1540

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1542

Airports, Arms and munitions, Aviation safety, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1544

Air carriers, Aircraft, Airmen, Airports, Arms and munitions, Aviation safety, Explosives, Freight forwarders, Law enforcement officers, Reporting and

[112] *See* the DHS/TSA PIA web page at *https://www.dhs.gov/publication/dhs-tsa-pia-026-alien-flight-student-programregardingTSA/AFSP* compliance with Privacy Act (5 U.S.C. 552a) requirements.

[113] Public Law 94–163 (89 Stat. 871; Dec. 22, 1975), as amended and codified at 42 U.S.C. 6362.

recordkeeping requirements, Security measures.

49 CFR Part 1546

Air carriers, Aircraft, Aviation safety, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1548

Air transportation, Aviation safety, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1549

Air transportation, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1550

Aircraft, Aviation safety, Security measures.

49 CFR Part 1552

Aircraft, Aircraft simulator, Aliens, Aviation safety, Citizenship, Expedited processing, Fees, Flight training, Lease agreements, Reporting and recordkeeping requirements, Security awareness training, Security Coordinator, Security measures, Security threat assessment, Training.

49 CFR Part 1554

Aircraft, Aviation safety, Repair stations, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 1570

Buses, Common carriers, Crime, Fraud, Hazardous materials transportation, Highway safety, Mass transportation, Motor Carriers, Railroad safety, Railroads, Reporting and recordkeeping requirements, Security measures, Transportation.

49 CFR Part 1572

Crime, Explosives, Hazardous materials transportation, Motor carriers, Railroads, Reporting and recordkeeping requirements, Security measures.

For the reasons set forth in the preamble, the Transportation Security Administration amends chapter XII, of title 49, Code of Federal Regulations, to read as follows:

PART 1500—APPLICABILITY, TERMS, AND ABBREVIATIONS

■ 1. The authority citation for part 1500 is revised to read as follows:

Authority: 49 U.S.C. 114, 5103, 40113, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44939, 44942, 46105; Pub. L. 110–53 (121 Stat. 266, Aug. 3, 2007) secs. 1408 (6 U.S.C. 1137), 1501 (6 U.S.C. 1151), 1517 (6 U.S.C. 1167), and 1534 (6 U.S.C. 1184).

■ 2. Amend § 1500.3 by adding the definitions of ''Citizen of the United States or U.S. Citizen'', ''Day'', ''Lawful permanent resident'', ''National of the United States or U.S. national'', and ''Non-U.S. citizen'' in alphabetical order to read as follows:

§ 1500.3 Terms and abbreviations used in this chapter.

* * * * *

Citizen of the United States or *U.S. Citizen* means any person who is a United States citizen by law, birth, or naturalization as described in 8 U.S.C. 1401 *et seq.*

Day means calendar day, unless called ''business day,'' which refers to Monday through Friday, excluding days when the U.S. Government is closed.

* * * * *

Lawful permanent resident means a person ''lawfully admitted for permanent residence'' as defined in 8 U.S.C. 1101(a)(20).

* * * * *

National of the United States or *U.S. national* means:

(1) A citizen of the United States; or

(2) A person who, though not a citizen of the United States, owes permanent allegiance to the United States, as defined in 8 U.S.C. 1101(a)(22).

Non-U.S. citizen means an individual who is not a citizen or national of the United States. This term is synonymous with the term ''alien'' as defined in 8 U.S.C. 1101(a)(3).

* * * * *

PART 1503—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

■ 3. The authority citation for part 1503 is revised to read as follows:

Authority : 6 U.S.C. 1142; 18 U.S.C. 6002; 28 U.S.C. 2461 (note); 49 U.S.C. 114, 20109, 31105, 40113–40114, 40119, 44901–44907, 44939, 46101–46107, 46109–46110, 46301, 46305, 46311, 46313–46314; Pub. L. 110–53 (121 Stat. 266, Aug. 3, 2007) secs. 1408 (6 U.S.C. 1137), 1501 (6 U.S.C. 1151), 1517 (6 U.S.C. 1167), and 1534 (6 U.S.C. 1184).

Subpart B—Scope of Investigative and Enforcement Procedures

§ 1503.103 [Amended]

■ 4. Amend § 1503.103 by removing the definition of ''Public transportation agency''.

Subpart C—Investigative Procedures

■ 5. Add § 1503.207 to read as follows:

§ 1503.207 Inspection authority.

(a) Each person subject to any of the requirements in this chapter or other applicable authority must allow TSA and other authorized DHS officials, at any time and in a reasonable manner, without advance notice, to enter, assess, inspect, and test property, facilities, equipment, and operations; and to view, inspect, and copy records, as necessary to carry out TSA's security-related statutory or regulatory authorities and without a subpoena, including its authority to—

(1) Assess threats to transportation.

(2) Enforce security-related laws, regulations, directives, and requirements.

(3) Inspect, maintain, and test the security of facilities, equipment, and systems.

(4) Ensure the adequacy of security measures for the transportation of passengers and cargo.

(5) Oversee the implementation, and ensure the adequacy, of security measures for conveyances and vehicles, at transportation facilities and infrastructure and other assets related to transportation.

(6) Review security plans and/or programs.

(7) Determine compliance with any requirements in this chapter.

(8) Carry out such other duties, and exercise such other powers, relating to transportation security, as the Administrator for TSA considers appropriate, to the extent authorized by law.

(b) At the request of TSA, each person subject to the requirements of this chapter must provide evidence of compliance with this chapter, including copies of records.

(c) TSA and other authorized DHS officials, may enter, without advance notice, and be present within any area or within any vehicle or conveyance, terminal, or other facility covered by this chapter without access media or identification media issued or approved by a person subject to requirements in this chapter or other applicable authority in order to inspect or test compliance, or perform other such duties as TSA may direct.

(d) TSA inspectors and other authorized DHS officials working with TSA will, on request, present their credentials for examination, but the credentials may not be photocopied or otherwise reproduced.

PART 1515—APPEAL AND WAIVER PROCEDURES FOR SECURITY THREAT ASSESSMENTS FOR INDIVIDUALS

■ 6. The authority citation for part 1515 continues to read as follows:

Authority: 46 U.S.C. 70105; 49 U.S.C. 114, 5103a, 40113, and 46105; 18 U.S.C. 842, 845; 6 U.S.C. 469.

§ 1515.3 [Amended]

■ 7. Amend § 1515.3 by removing the definition of ''Day''.

PART 1540—CIVIL AVIATION SECURTIY: GENERAL RULES

■ 8. The authority citation for part 1540 continues to read as follows:

Authority: 49 U.S.C. 114, 5103, 40113, 44901–44907, 44913–44914, 44916–44918, 44925, 44935–44936, 44942, 46105.

■ 9. Add § 1540.7 to read as follows:

§ 1540.7 Severability.

Any provision of this subchapter held to be invalid or unenforceable as applied to any person or circumstance shall be construed so as to continue to give the maximum effect to the provision permitted by law, including as applied to persons not similarly situated or to dissimilar circumstances, unless such holding is that the provision of this subpart is invalid and unenforceable in all circumstances, in which event the provision shall be severable from the remainder of this subchapter and shall not affect the remainder thereof.

PART 1542—AIRPORT SECURITY

■ 10. The authority citation for part 1542 continues to read as follows:

Authority: 49 U.S.C. 114, 5103, 40113, 44901–44905, 44907, 44913–44914, 44916–44917, 44935–44936, 44942, 46105.

Subpart A—General

§ 1542.5 [Removed and Reserved]

■ 11. Remove and reserve § 1542.5.

PART 1544—AIRCRAFT OPERATOR SECURITY: AIR CARRIERS AND COMMERCIAL OPERATORS

■ 12. The authority citation for part 1544 continues to read as follows:

Authority: 49 U.S.C. 114, 5103, 40113, 44901–44905, 44907, 44913–44914, 44916–44918, 44932, 44935–44936, 44942, 46105.

Subpart A—General

§ 1544.3 [Removed and Reserved]

■ 13. Remove and reserve § 1544.3.

PART 1546—FOREIGN AIR CARRIER SECURITY

■ 14. The authority citation for part 1546 continues to read as follows:

Authority: 49 U.S.C. 114, 5103, 40113, 44901–44905, 44907, 44914, 44916–44917, 44935–44936, 44942, 46105.

Subpart A—General

§ 1546.3 [Removed and Reserved]

■ 15. Remove and reserve § 1546.3.

PART 1548—INDIRECT AIR CARRIER SECURITY

■ 16. The authority citation for part 1548 continues to read as follows:

Authority: 49 U.S.C. 114, 5103, 40113, 44901–44905, 44913–44914, 44916–44917, 44932, 44935–44936, 46105.

§ 1548.3 [Removed and Reserved]

■ 17. Remove and reserve § 1548.3.

PART 1549—CERTIFIED CARGO SCREENING PROGRAM

■ 18. The authority citation for part 1549 continues to read as follows:

Authority: 49 U.S.C. 114, 5103, 40113, 44901–44905, 44913–44914, 44916–44917, 44932, 44935–44936, 46105.

Subpart A—General

§ 1549.3 [Removed and Reserved]

■ 19. Remove and reserve § 1549.3.

PART 1550—AIRCRAFT SECURITY UNDER GENERAL OPERATING AND FLIGHT RULES

■ 20. The authority citation for part 1550 continues to read as follows:

Authority: 49 U.S.C. 114, 5103, 40113, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

§ 1550.3 [Removed and Reserved]

■ 21. Remove and reserve § 1550.3.

■ 23. Revise part 1552 to read as follows:

PART 1552—FLIGHT TRAINING SECURITY PROGRAM

Subpart A—Definitions and General Requirements

Sec.
1552.1 Scope.
1552.3 Terms used in this part.
1552.5 Applicability.
1552.7 Verification of eligibility.
1552.9 Security Coordinator.
1552.11 [Reserved]
1552.13 Security awareness training.
1552.15 Recordkeeping.
1552.17 FTSP Portal.
1552.19 Fraud, falsification, misrepresentation, or omission.

Subpart B—Security Threat Assessments

1552.31 Security threat assessment required for flight training candidates.
1552.33 [Reserved]
1552.35 Presence in the United States.
1552.37 Comparable security threat assessments.
1552.39 Fees.

Subpart C—Flight Training Event Management

1552.51 Notification and processing of flight training events.

Authority: 49 U.S.C. 114, 44939, and 6 U.S.C. 469.

Subpart A—Definitions and General Requirements

§ 1552.1 Scope.

This part includes requirements for the following persons:

(a) Persons who provide flight training or flight training equipment governed by 49 U.S.C. subtitle VII, part A, to any individual.

(b) Persons who lease flight training equipment.

(c) Non-U.S. citizens who apply for or participate in flight training.

(d) U.S. citizens and U.S. nationals who participate in flight training.

§ 1552.3 Terms used in this part.

In addition to the terms in §§ 1500.3 and 1540.5 of this chapter, the following terms apply to this part:

Aircraft simulator means a flight simulator or flight training device, as those terms are defined under 14 CFR part 61. Simulated flights for entertainment purposes or personal computer, video game, or mobile device software programs involving aircraft flight are not aircraft simulators for purposes of the requirements in this part.

Candidate means a non-U.S. citizen who applies for flight training or recurrent training from a flight training provider. The term does not include foreign military personnel who are endorsed for flight training by the U.S. Department of Defense (DoD), as described in § 1552.7(a)(2); and does not include a non-U.S. citizen providing in-aircraft or in-simulator services or support to another candidate's training event (commonly referred to as ''side-seat support'') if the individual providing this support holds a type rating or other set of pilot certificates required to operate the aircraft or simulator in which the supported individual is receiving instruction.

Demonstration flight for marketing purposes means a flight for the purpose of demonstrating aircraft capabilities or characteristics to a potential purchaser; an orientation, familiarization, discovery flight for the purpose of demonstrating a flight training provider's training program to a potential candidate; or an acceptance flight after an aircraft manufacturer delivers an aircraft to a purchaser.

DoD means the Department of Defense.

DoD endorsee means a non-U.S. citizen who is or will be employed as a pilot by a foreign military, endorsed by the DoD or one of its component services, and validated by a DoD attaché for flight training as required by § 1552.7(a)(2).

Determination of Eligibility means a finding by TSA, upon completion of a security threat assessment, that an individual meets the standards of a security threat assessment, and is eligible for a program, benefit, or credential administered by TSA.

Determination of Ineligibility means a finding by TSA, upon completion of a security threat assessment, that an individual does not meet the standards of a security threat assessment, and is not eligible for a program, benefit, or credential administered by TSA.

Flight training means instruction in a fixed-wing or rotary-wing aircraft or aircraft simulator that is consistent with the requirements to obtain a new skill, certificate, or type rating, or to maintain a pilot certificate or rating. For the purposes of this rule, flight training does not include instruction in a balloon, glider, ultralight, or unmanned aircraft; ground training; demonstration flights for marketing purposes; simulated flights for entertainment purposes; or any flight training provided by the DoD, the U.S. Coast Guard, or any entity providing flight training under a contract with the DoD or the Coast Guard.

Flight training provider means—

(1) Any person that provides instruction under 49 U.S.C. subtitle VII, part A, in the operation of any aircraft or aircraft simulator in the United States or outside the United States, including any pilot school, flight training center, air carrier flight training facility, or individual flight instructor certificated under 14 CFR parts 61, 121, 135, 141, or 142;

(2) Similar persons certificated by foreign aviation authorities recognized by the Federal Aviation Administration (FAA), who provide flight training services in the United States; and

(3) Any lessor of an aircraft or aircraft simulator for flight training, if the person leasing their equipment is not covered by paragraph (1) or (2) of this definition.

Flight training provider employee means an individual who provides services to a flight training provider in return for financial or other compensation, or a volunteer, and who has direct contact with flight training students and candidates. A flight training provider employee may be an instructor, other authorized representative, or independent contractor.

Flight Training Security Program (FTSP) means the TSA program that provides regulatory oversight of the requirements in this part and provides related resources for individuals within the scope of this part.

FTSP Portal means a website that must be used to submit and receive certain information and notices as required by this part.

FTSP Portal account means an account created to access the FTSP Portal.

Recurrent training means

(1) Periodic flight training—

(i) Required for certificated pilots under 14 CFR parts 61, 121, 125, 135, or subpart K of part 91 to maintain a certificate or type rating; or

(ii) Similar training required by a civil aviation authority recognized by the FAA and conducted within the United States and its territories.

(2) Recurrent training does not include—

(i) Training that may be credited toward a new certificate or a new type rating; or

(ii) Checks or tests that do not affect the validity of the certificate(s) or the qualifications of a type rating.

Security threat means an individual determined by TSA to pose or to be suspected of posing a threat to national security, to transportation security, or of terrorism.

Security threat assessment means both a product and process of evaluating information regarding an individual seeking or holding approval for a program administered by TSA, including criminal, immigration, intelligence, law enforcement, and other security-related records, to verify the individual's identity and to determine whether the individual meets the eligibility criteria for the program. An individual who TSA determines is a security threat, or who does not otherwise meet the eligibility criteria for the program, is ineligible for that program.

Simulated flight for entertainment purposes means a ground-based aviation experience offered exclusively for the purpose of entertainment by a person that is not a flight training provider. Any simulated aviation experience that could be applied or credited toward an airman certification is not a simulated flight for entertainment purposes.

Type rating means an endorsement on a pilot certificate that the holder of the certificate has completed the appropriate training and testing required by a civil or military aviation authority to operate a certain make and type of aircraft.

§ 1552.5 Applicability.

Each of the following persons must comply with the requirements in this part:

(a) Any individual applying for flight training or recurrent flight training from a flight training provider;

(b) Flight training providers;

(c) Flight training provider employees; and

(d) Persons using a leased aircraft simulator to provide flight training as follows:

(1) If one or more persons using the leased aircraft simulator to provide flight training is certificated by the FAA as a flight instructor, then at least one of those certificated persons must register with TSA as a flight training provider and comply with the requirements of this part; or

(2) If one or more persons using a leased aircraft simulator to provide flight training are neither registered with TSA as a flight training provider nor certificated by the FAA as an instructor, then the lessor of the aircraft simulator must register with TSA as a flight training provider and comply with the requirements of this part.

§ 1552.7 Verification of eligibility.

(a) No flight training provider may provide flight training or access to flight training equipment to any individual before establishing that the individual is a U.S. citizen, U.S. national, DoD endorsee, or candidate with a valid Determination of Eligibility resulting from a TSA-accepted security threat assessment completed in accordance with subpart B of this part.

(1) To establish that an individual is a U.S. citizen or a U.S. national, each flight training provider must examine the individual's government-issued documentation as proof of U.S. citizenship or U.S. nationality. A student who claims to be a U.S. citizen or a U.S. national and who fails to provide valid, acceptable identification documents must be denied flight training. A list of acceptable identification documents may be found on the FTSP Portal.

(2) To establish that an individual has been endorsed by the DoD to receive U.S. Government-sponsored flight training in the United States, each flight training provider must use the FTSP Portal to confirm that the endorsee's government-issued photo identification matches the information provided in the U.S. DoD endorsement available on the FTSP Portal. A DoD endorsee is exempt from the requirement to undergo the

security threat assessment required by this part if the DoD attaché with jurisdiction for the foreign military pilot's country of citizenship has notified TSA through the FTSP Portal that the pilot may participate in U.S. Government-sponsored flight training.

(3) To establish that a candidate has undergone a TSA-accepted security threat assessment, each flight training provider must use the FTSP Portal to confirm that TSA has issued a Determination of Eligibility to that candidate and that the determination is valid.

(b) Each flight training provider must immediately terminate a candidate's participation in all ongoing or planned flight training events when TSA either sends a Determination of Ineligibility for that candidate or notifies the flight training provider that the candidate presents a security threat.

(c) Each flight training provider must acknowledge through the FTSP Portal receipt of any of the following TSA notifications: Determination of Ineligibility; Candidate Security Threat; and Deny Candidate Flight Training.

(d) Each flight training provider must notify TSA if the provider becomes aware that a candidate is involved in any alleged criminal disqualifying offenses, as described under § 1544.229(d) of this subchapter; is no longer permitted to remain in the United States, as described in § 1552.35; or has reason to believe the individual otherwise poses a security threat.

§ 1552.9 Security Coordinator.

(a) *Designation of a Security Coordinator.* Each flight training provider must designate and use a primary Security Coordinator. The Security Coordinator must be designated at the corporate level.

(b) *Notification to TSA.* Each flight training provider must provide to TSA the names, title(s), phone number(s), and email address(es) of the Security Coordinator and the alternate Security Coordinator(s), as applicable, no later than November 1, 2024. Once a flight training provider has notified TSA of the contact information for the designated Security Coordinator and the alternate Security Coordinator(s), as applicable, the provider must notify TSA within 5 days of any changes in any of the information required by this section. This information must be provided through the FTSP Portal.

(c) *Role of Security Coordinator.* Each flight training provider must ensure that at least one Security Coordinator—

(1) Serves as the primary contact for intelligence information and security-related activities and communications with TSA. Any individual designated as a Security Coordinator may perform other duties in addition to those described in this section.

(2) Is accessible to TSA on a 24-hours a day, 7 days a week basis.

(3) Coordinates security practices and procedures internally, and with appropriate law enforcement and emergency response agencies.

(d) *Training for Security Coordinator.* Security Coordinator must satisfactorily complete the security awareness training required by § 1552.13, and have the resources and knowledge necessary to quickly contact the following, as applicable:

(1) Their local TSA office;

(2) The local Federal Bureau of Investigation (FBI) office; and

(3) Local law enforcement, if a situation or an individual's behavior could pose an immediate threat.

§ 1552.11 [Reserved]

§ 1552.13 Security awareness training.

(a) Each flight training provider must ensure that each flight training provider employee who has direct contact with flight students completes a security awareness training program that meets the requirements of this section.

(b) Each flight training provider must ensure that each flight training provider employee who has direct contact with flight students receives initial security awareness training within 60 days of hiring. At a minimum, initial security awareness training must—

(1) Require direct participation by the flight training provider employee receiving the training, either in person or through an online training module;

(2) Provide situational scenarios requiring the flight training provider employee receiving the training to assess specific situations and determine appropriate courses of action; and

(3) Contain information that enables a flight training provider employee to identify the following:

(i) Any restricted areas of the flight training provider or airport where the flight training provider operates and individuals authorized to be in these areas or in or on equipment, including designations such as uniforms or badges unique to the flight training provider and required to be worn by employees or other authorized persons.

(ii) Behavior that may be considered suspicious, including, but not limited to—

(A) Excessive or unusual interest in restricted airspace or restricted ground structures by unauthorized individuals;

(B) Unusual questions or interest regarding aircraft capabilities;

(C) Aeronautical knowledge inconsistent with the individual's existing airman credentialing; and

(D) Sudden termination of instruction by a candidate or other student.

(iii) Indications that candidates are being trained without a Determination of Eligibility or validation of exempt status.

(iv) Behavior by other persons on site that may be considered suspicious, including, but not limited to—

(A) Loitering on or around the operations of a flight training provider for extended periods of time; and

(B) Entering ''authorized access only'' areas without permission.

(v) Circumstances regarding aircraft that may be considered suspicious, including, but not limited to—

(A) Unusual modifications to aircraft, such as the strengthening of landing gear, changes to the tail number, or stripping of the aircraft of seating or equipment;

(B) Damage to propeller locks or other parts of an aircraft that is inconsistent with the pilot training or aircraft flight log; and

(C) Dangerous or hazardous cargo loaded into an aircraft.

(vi) Appropriate flight training provider employee responses to specific situations and scenarios, including—

(A) Identifying suspicious behavior requiring action, such as identifying anomalies within the operational environment considering the totality of the circumstances, and appropriate actions to take;

(B) When and how to safely question an individual if the individual's behavior is suspicious; and

(C) Informing a supervisor and the flight training provider's Security Coordinator, if a situation or an individual's behavior warrants further investigation.

(vii) Any other information relevant to security measures or procedures unique to the flight training provider's business, such as threats, past security incidents, or a site-specific TSA requirement.

(c) All flight training providers must ensure that each employee receives refresher security awareness training at least every 2 years. At a minimum, a refresher security awareness training program must—

(1) Include all the elements from the initial security awareness training;

(2) Provide instruction on any new security measures or procedures implemented by the flight training provider since the last security awareness training program;

(3) Relay information about recent security incidents at the flight training provider's business, if any, and any

lessons learned as a result of such incidents;

(4) Cover any new threats posed by, or incidents involving, general or commercial aviation aircraft; and

(5) Provide instruction on any new TSA requirements concerning the security of general or commercial aviation aircraft, airports, or flight training operations.

(d) Flight training providers who must conduct security awareness training under part 1544 or 1546 of this subchapter may deliver that training in lieu of compliance with paragraphs (a) through (c) of this section.

§ 1552.15 Recordkeeping.

(a) *Retention.* Except as provided in paragraph (e) of this section, each flight training provider subject to the requirements in this part must, at a minimum, retain the records described in this section to demonstrate compliance with TSA's requirements and make these records available to TSA upon request for inspection and copying.

(b) *Employee records.* Each flight training provider required to provide security awareness training under § 1552.13 must—

(1) Retain security awareness training records for each employee required to receive training that includes, at a minimum—

(i) The employee's name;

(ii) The dates the employee received security awareness training;

(iii) The name of the instructor or manager for training; and

(iv) The curricula or syllabus used for the most recently provided training that establishes the training meets the criteria specified in § 1552.13.

(2) Retain records of security training for no less than 1 year after the individual is no longer an employee.

(3) Provide records to current and former employees upon request and at no charge as necessary to provide proof of training. At a minimum, the information provided must include—

(i) The information in paragraph (b)(1) of this section, except that, in lieu of providing the curriculum or syllabus, the flight training provider may provide a statement certifying that the training program used by the flight training provider met the criteria specified in § 1552.13; and

(ii) The signature or e-signature of an authorized official of the provider.

(4) A flight training provider that conducts security awareness training under parts 1544 or 1546 of this subchapter may retain that documentation in lieu of compliance with this section.

(c) *Records demonstrating eligibility for flight training for U.S. citizens and U.S. nationals.* (1) Each flight training provider must maintain records that document the provider's verification of U.S. citizenship or U.S. nationality as described in § 1552.7(a)(1).

(2) Each flight training provider may certify that verification of U.S. citizenship or U.S. nationality occurred by making the following endorsement in both the instructor's and the student's logbooks: ''I certify that [insert student's full name] has presented to me a [insert type of document presented, such as U.S. birth certificate or U.S. passport, and the relevant control or sequential number on the document, if any] establishing that [the student] is a U.S. citizen or U.S. national in accordance with 49 CFR 1552.7(a). [Insert date and the instructor's signature and certificate number.]''

(3) In lieu of paragraph (c)(1) or (2) of this section, the flight training provider may make and retain copies of the documentation establishing an individual as a U.S. citizen or U.S. national.

(d) *Leasing agreements.* Each flight training provider must retain all lease agreement records for aircraft simulators leased from another person, as identified under this section, as necessary to demonstrate compliance with the requirements of this part.

(e) *Records maintenance.* (1) With the exception of the retention schedule for training records required under paragraph (b)(2) of this section, all records required by this part must be maintained electronically using methods approved by TSA or as paper records for at least 5 years after expiration or discontinuance of use.

(2) A flight training provider that uses its FTSP Portal account to confirm or manage the following records is not required to maintain separate electronic or paper copies of the following records:

(i) Security awareness training records;

(ii) Security Coordinator training records;

(iii) Verification of U.S. citizenship or U.S. nationality;

(iv) Verification of DoD Endorsee identity; or

(v) Aircraft or aircraft simulator lease agreements.

§ 1552.17 FTSP Portal.

(a) Candidates must obtain an FTSP Portal account and use the FTSP Portal to submit the information and fees necessary to initiate a security threat assessment under subpart B of this part.

(b) Flight training providers who provide flight training to candidates must obtain an FTSP Portal account and use the FTSP Portal to notify TSA of all candidate flight training events and confirm that a candidate is eligible for flight training. The flight training provider also may use the FTSP Portal for other recordkeeping purposes related to the requirements in § 1552.15.

(c) The FTSP Portal account administrator for flight training providers who operate under 14 CFR part 61, either as an individual certified flight instructor, or for a group of certified flight instructors, must be an FAA certificate holder. The FTSP Portal account administrator for flight training providers who operate under 14 CFR parts 121, 135, 141, and 142 is not required to be an FAA certificate holder.

(d) TSA may suspend a flight training provider's access to the FTSP Portal at any time, without advance notice.

§ 1552.19 Fraud, falsification, misrepresentation, or omission.

If an individual covered by this part commits fraud, makes a false statement or misrepresentation, or omits a material fact when submitting any information required under this part, the individual may be—

(a) Subject to fine or imprisonment or both under Federal law, including, but not limited to, 18 U.S.C. 1001 and 49 U.S.C. 46301;

(b) Denied a security threat assessment under this chapter; and/or

(c) Subject to other enforcement or administrative action, as appropriate, including, but not limited to, proceedings under § 1540.103 of this subchapter.

Subpart B—Security Threat Assessments

§ 1552.31 Security threat assessment required for flight training candidates.

(a) *Scope of security threat assessment.* Each candidate must complete a security threat assessment and receive a Determination of Eligibility from TSA prior to initiating flight training.

(b) *Information required.* To apply for a security threat assessment, each candidate must submit the following, in a form and manner acceptable to TSA—

(1) Biographic and biometric information determined by TSA to be necessary for conducting a security threat assessment;

(2) Identity verification documents; and

(3) The applicable security threat assessment fee identified in § 1552.39.

(c) *TSA Determination of Eligibility.* TSA may issue a Determination of Eligibility to the flight training provider

after conducting a security threat assessment of the candidate that includes, at a minimum—

(1) Confirmation of the candidate's identity;

(2) A check of relevant databases and other information to determine whether the candidate may pose or poses a security threat and to confirm the individual's identity;

(3) An immigration check; and

(4) An FBI fingerprint-based criminal history records check to determine whether the individual has a disqualifying criminal offense in accordance with the requirements of § 1544.229 of this subchapter.

(d) *Term of TSA Determination of Eligibility.* (1) The TSA Determination of Eligibility expires 5 years after the date it was issued, unless—

(i) The candidate commits a disqualifying criminal offense described in § 1544.229(d) of this subchapter and, in such case, the Determination of Eligibility expires on the date the candidate was convicted or found not guilty by reason of insanity;

(ii) TSA determines that the candidate poses a security threat; or

(iii) The candidate's authorization to remain in the United States expires earlier than 5 years and, in such case, the Determination of Eligibility expires on the date that the candidate's authorization to remain in the United States expires. Candidates may extend the term of their Determination of Eligibility up to a total of 5 years by submitting updated documentation of authorization to remain in the United States.

(2) No candidate may engage in flight training after the expiration of the candidate's Determination of Eligibility.

(e) *Processing time.* TSA will process complete security threat assessment applications within 30 days.

(f) *Correction of the record.* A Determination of Ineligibility made by TSA on the basis of a candidate's complete and accurate record is final. If the Determination of Ineligibility was based on a record that the candidate believes is erroneous, the candidate may correct the record by submitting all missing or corrected documents, plus all additional documents or information that TSA may request, within 180 days of TSA's initial determination.

§ 1552.33 [Reserved]

§ 1552.35 Presence in the United States.

(a) A candidate may be eligible to participate in flight training if the candidate—

(1) Is lawfully admitted to the United States, or entered the United States and has been granted permission to stay by the U.S. Government, or is otherwise authorized to be employed in the United States; and

(2) Is within their period of authorized stay in the United States.

(b) A candidate who has yet to obtain a valid document issued by the United States evidencing eligibility to take flight training may be issued a preliminary Determination of Eligibility pending the individual's ability to provide proof of eligibility.

(c) A candidate who engages in a flight training event that takes place entirely outside the United States is not required to provide eligibility for flight training in the United States, but must provide any United States visas held by the candidate.

(d) Any history of denial of a United States visa may be a factor in determining whether a candidate is eligible to participate in flight training, regardless of training location.

§ 1552.37 Comparable security threat assessments.

(a) TSA may accept the results of a comparable, valid, and unexpired security threat assessment, background check, or investigation conducted by TSA or by another U.S. Government agency, which TSA generally describes as a Determination of Eligibility. A candidate seeking to rely on a comparable security threat assessment must submit documents confirming their Determination of Eligibility through the FTSP Portal, including the biographic and biometric information required under § 1552.31. TSA will post a list of acceptable comparable security threat assessments on the FTSP Portal.

(b) TSA will charge a fee to cover the costs of confirming a comparable security threat assessment, but this fee may be a reduced fee.

(c) An FTSP reduced-fee security threat assessment based on a comparable security threat assessment will be valid in accordance with § 1552.31.

§ 1552.39 Fees.

(a) *Imposition of fees.* (1) A candidate must remit the fees required by this part, as determined by TSA, which will be published through notice in the **Federal Register** and posted on the FTSP Portal.

(2) Changes to the fee amounts will be published through notice in the **Federal Register** and posted on the FTSP Portal.

(3) TSA will publish the details of the fee methodology in the rulemaking docket.

(b) *Refunding fees.* TSA will not issue fee refunds unless the fee is paid in error.

Subpart C—Flight Training Event Management

§ 1552.51 Notification and processing of flight training events.

(a) *Notification of flight training events.* Each flight training provider must notify TSA through the FTSP Portal of all proposed and actual flight training events scheduled by a candidate, without regard to whether that training is intended to result in certification.

(b) *Training event details.* Each flight training provider must include the following information with each flight training event notification:

(1) Candidate name;

(2) The rating(s) that the candidate could receive upon completion of the flight training, if any;

(3) For recurrent flight training, the type rating for which the recurrent training is required;

(4) Estimated start and end dates of the flight training; and

(5) Location(s) where the flight training is anticipated to occur.

(c) *Acknowledgement.* TSA will acknowledge receipt of the information required by paragraphs (a) and (b) of this section.

(d) *Candidate photograph.* When the candidate arrives for training, each flight training provider must take a photograph of the candidate and must upload it to the FTSP Portal within 5 business days of the date that the candidate arrived for flight training.

(e) *Waiting period.* Each flight training provider may initiate flight training if more than 30 days have elapsed since TSA acknowledged receipt of the information required by paragraphs (a) and (b) of this section.

(f) *Waiting period for expedited processing.* A flight training provider may initiate flight training if:

(1) More than 5 business days have elapsed since TSA acknowledged receipt of the information required by paragraphs (a) and (b) of this section; and

(2) TSA has provided confirmation in its acknowledgement to the flight training provider that the candidate is eligible for expedited processing. A candidate is eligible for expedited processing if the candidate has provided proof to TSA that the candidate—

(i) Holds an FAA airman certificate with a type rating;

(ii) Holds an airman certificate, with a type rating, from a foreign country that is recognized by an agency of the United States, including a military agency;

(iii) Is employed by a domestic or foreign air carrier that has an approved security program under parts 1544 or 1546 of this subchapter, respectively;

(iv) Is an individual that has unescorted access to a secured area of an airport as determined under part 1542 of this subchapter; or

(v) Is a lawful permanent resident.

(g) *Update training event details.* Each flight training provider must update on the FTSP Portal the following information for each reported flight training event:

(1) Actual start and end dates.

(2) Actual training location(s).

(3) Notification if training was not completed, to include a brief description of why the training was not completed, *e.g.,* cancellation by the provider or the candidate, failure of the candidate to meet the required standard, or abandonment of training by the candidate.

PART 1554—AIRCRAFT REPAIR STATION SECURITY

■ 24. The authority citation for part 1554 continues to read as follows:

Authority: 49 U.S.C. 114, 40113, 44903, 44924.

§ 1554.3 [Removed and Reserved]

■ 25. Remove and reserve § 1554.3.

Subchapter D—Maritime and Surface Transportation Security

PART 1570—GENERAL RULES

■ 26. The authority citation for part 1570 continues to read as follows:

Authority: 18 U.S.C. 842, 845; 46 U.S.C. 70105; 49 U.S.C. 114, 5103a, 40113, and 46105; Pub. L. 108–90 (117 Stat. 1156, Oct. 1, 2003), sec. 520 (6 U.S.C. 469), as amended by Pub. L. 110–329 (122 Stat. 3689, Sept. 30, 2008) sec. 543 (6 U.S.C. 469); Pub. L. 110–53 (121 Stat. 266, Aug. 3, 2007) secs. 1402 (6 U.S.C. 1131), 1405 (6 U.S.C. 1134), 1408 (6 U.S.C. 1137), 1413 (6 U.S.C. 1142), 1414 (6 U.S.C. 1143), 1501 (6 U.S.C. 1151), 1512 (6 U.S.C. 1162), 1517 (6 U.S.C. 1167), 1522 (6 U.S.C. 1170), 1531 (6 U.S.C. 1181), and 1534 (6 U.S.C. 1184).

Subpart A—General

§ 1570.3 [Amended]

■ 27. Amend § 1570.3 by removing the definitions of ''Alien'', ''Lawful permanent resident'', ''National of the United States'', and ''Security threat''.

§ 1570.9 [Removed and Reserved]

■ 28. Remove and reserve § 1570.9.

PART 1572—CREDENTIALING AND SECURITY THREAT ASSESSMENTS

■ 29. The authority citation for part 1572 continues to read as follows:

Authority: 46 U.S.C. 70105; 49 U.S.C. 114, 5103a, 40113, and 46105; 18 U.S.C. 842, 845; 6 U.S.C. 469.

§ 1572.400 [Amended]

■ 30. Amend § 1572.400 by removing the definition of ''Day.''

Dated: April 19, 2024.

David P. Pekoske,

Administrator.

[FR Doc. 2024–08800 Filed 4–30–24; 8:45 am]

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