

After the Provider has furnished this notification, the Department will complete its final review of the risk presented by the alien. In most cases, the Department anticipates being able to authorize the commencement of training within a fraction of the 45-day notification period after submission of the candidate's fingerprints. If the Department subsequently uncovers a problem, the FTTTF will order the Provider to cease training, in accordance with section 113(b) of ATSA.

4. Training Dates

Concerning flexibility with regard to training dates, one recommendation was that candidates be given up to 13 months to commence training following approval, provided there were no material changes in the information provided to the Department. It was also suggested that candidates be permitted to receive approval for several different courses of training.

The Department has determined that sound security practices require that training take place at a time and place known to the Department and that training occur within a reasonable amount of time following the request. Nevertheless, the Department agrees that some additional flexibility within this program, the Flight Training Candidate Checks Program ("FTCCP"), would not be inconsistent with security interests. Hence, changes have been made to § 105.10(b)(4) to allow actual training to occur within 30 calendar days of the scheduled training date.

5. Fingerprinting

Several concerns were raised by commenters on the subject of the fingerprinting process. Among these was the concern that requiring candidates to go before local law enforcement as the primary method of collecting fingerprints would be unduly burdensome given the possibility of a waiting period of up to 45 days after the candidate arrives in the United States before training can commence.

The Department agrees that requiring candidates to arrive in the United States 45 days prior to training would pose many problems and serve as a significant deterrent to U.S. training for some candidates. The 45-day time frame for action by the Department after the submission of all required information was established by the statute. The Department does not anticipate requiring this much time to conduct the necessary checks and assessments for the vast majority of candidates. The anticipated future use of electronic fingerprinting equipment will permit the fingerprint processing (including all

necessary checks) to be completed in most cases in less than 24 hours after the proper electronic submission of a set of prints.

Commenters also expressed a preference for collecting the required fingerprints at U.S. embassies and consulates before a candidate undertakes the expense of traveling to this country and being subject to a 45-day waiting period. This option may prove difficult given limitations on State Department diplomatic personnel. At the present time, embassies and consulates cannot accommodate candidates in this regard. The final rule, however, has been drafted to allow for fingerprints to be taken abroad at U.S. Government agencies as these options become more feasible in the future. In addition, the Department is negotiating to obtain access to a process that may allow candidates to comply with its fingerprint requirements through the Immigration and Naturalization Service and its successor organizational unit in the Department of Homeland Security Directorate of Border and Transportation Security ("INS"), which has the most advantageous system for the prompt electronic processing of fingerprints available in the government, to allow INS to take fingerprints at its Application Support Centers. It is anticipated that INS centers, including centers abroad, may become available for fingerprinting candidates in the future.

Suggestions that fingerprints be collected in electronic format are consistent with the Department's future plans but dependent upon the resources and technology available to the FTCCP.

Another comment questioned the purpose of the fingerprinting provisions. Commenters believed that the databases against which fingerprints would be checked contain, for the most part, information obtained from crimes committed in the United States. Accordingly, they said that such records check on a foreign national would rarely produce any meaningful results. In the past, this may have been true; however, Departmental fingerprint resources are expanding to include substantial amounts of relevant data—including foreign records—that justify the requirement. The requirement also will help to prevent identity fraud by training candidates.

As provided in § 105.13(c) and (f) of the regulation, the Department may authorize private individuals to take the required fingerprints on a case-by-case basis if it determines that such individuals possess the necessary training and will be able to ensure the integrity of the fingerprinting process.

The Department anticipates that some Providers may seek to engage the services of dependable fingerprinting experts in order to facilitate the fingerprint submission process.

6. Weight Classes

One commenter inquired about the distinction made in section 113 between large aircraft (over 12,500 pounds, maximum certificated takeoff weight) and smaller aircraft. According to this commenter, "the statement on the FAA portion of [the] web page * * * leads [him] to believe that any foreign nationals and nationals of the United States desiring to attend training at any FAA approved and certificated flight school must register."

At this time, section 113 applies only to training in the operation of an aircraft with a maximum certificated takeoff weight of 12,500 pounds or more. Training in the operation of a smaller aircraft, however, is included under certain special circumstances. For example, some lines of jets, such as the Cessna Citation and the Lear, are manufactured with several different models with maximum certificated takeoff weights ranging above and below 12,500 pounds. A Provider must furnish the required notification if the Provider is furnishing training that would allow the candidate to fly an aircraft with a certificated takeoff weight of 12,500 pounds or more in accordance with applicable FAA regulations. This matter has been addressed in § 105.10(b)(1) of the rule.

Section 113 applies to students who: (1) Are not citizens or nationals of the United States, or who fall into another category designated by the Under Secretary of Transportation for Security; (2) wish to receive flight training in aircraft with a maximum certificated takeoff weight of 12,500 pounds or more, or if the training would allow the candidate to fly a model of the same or substantially similar type of aircraft with a maximum certificated takeoff weight of 12,500 pounds or more in accordance with FAA regulations; and (3) wish to receive flight training from an FAA regulated flight training provider that will lead to an FAA certification, rating, or other FAA-covered distinction, regardless of whether training occurs in the United States or abroad.

Another commenter stated that the rule prevents people from obtaining flight training in the United States, but does not prevent them from gaining the same skills in another country. The commenter also stated that training in the operation of a light aircraft, which is not subject to regulation under