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NO

SECDEF WASHINGTON DC//USDP-DSCA//

AIG 8797

INFO SECDEF WASHINGTON DC//OSD/SOLIC/PK&HA//

SECSTATE WASHINGTON DC//PM-CCP//

JCS WASHINGTON DC//J-5/J-7//

USCINCPAC HONOLULU HI//J45/J5/J56//

USCINCEUR VAIHINGEN GE//ECJ4-IDS/J5//

USCINCCENT MACDILL AFB FL//CCJ47-SP/J5//

USCINCSO MIAMI FL//SCJ5-SA//

NETSAFA PENSACOLA FL//00/N1//

NAVY IPO WASHINGTON DC//02T//

DISAM WRIGHT PATTERSON AFB OH//CC//

CG MCCDC QUANTICO VA//CSW//

CG TECOM QUANTICO VA//CSW//

DA WASHINGTON DC//DAMO-ZXS/SAUS-IS-DSA//

CDRTRADOC FORT MONROE VA//

DIRSATFA FORT MONROE VA//ATFA-R//

CDRSATMO FT BRAGG NC//AOJK-SA//

HQDA WASHINGTON DC//DASG-HCO//

CDRUSACECOM FT MONMOUTH NJ//AMSEL-LC-SA-CA//

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CMC WASHINGTON DC//PPO/PL//
CNET PENSACOLA FL//
COMDT COGARD WASHINGTON DC//G-CI//
COGARD TRACEN YORKTOWN VA//ITD//
OSAF WASHINGTON DC//IAPX//
AFSAT RANDOLPH AFB TX//TO/CC//
COMDT DLIELC LACKLAND AFB TX//LEX//
NDU WASHINGTON DC//NDU-IF//
NAVPGSCOL MONTEREY CA//035/CM/DHMI//
DEFREMANINST MONTEREY CA//
AFIT WRIGHT PATTERSON AFB OH//IS//
DEFINSTEINLEGSTUDIES NEWPORT RI//
USAFSOS HURLBURT FLD FL//CC//
SECDEF WASH DC//USDP-CH//

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SUBJECT: EXEMPTION FOR DOD AND U.S. COAST GUARD TRAINING FROM NEW RESTRICTIONS AND PROCEDURES ON AVIATION FLIGHT TRAINING FOR FOREIGN NATIONALS - THE IMPLICATION FOR SECURITY ASSISTANCE (IMET AND FMS CONUS STUDENTS) AND FOR DIRECT COMMERCIAL SALE (DCS) FLIGHT TRAINING (DSCA 02-26)

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FROM: DSCA/GENERAL COUNSEL AND POLICY, PLANS AND PROGRAMS DIRECTORATE

1. THIS MESSAGE IS INTENDED TO PROVIDE THE SECURITY ASSISTANCE COMMUNITY WITH INFORMATION AND GUIDANCE ON THE AVIATION AND TRANSPORTATION SECURITY ACT (SECTION 113). THE ACCOMPANYING INTERIM FINAL RULE PUBLISHED BY THE DEPARTMENT OF JUSTICE ON 14 JUNE 2002 IN THE FEDERAL REGISTER (28 CFR PART 105) MAKES CLEAR THAT WHEN THE DOD OR THE U.S. COAST GUARD (USCG) PROVIDES TRAINING FOR A MILITARY PURPOSE, SUCH TRAINING IS NOT SUBJECT TO THE RESTRICTIONS AND REQUIREMENTS IT IMPOSES.

2. BACKGROUND: PURSUANT TO SECTION 113 OF THE ATSA, IF AN ALIEN (THAT IS "ANY PERSON NOT A CITIZEN OR NATIONAL OF THE UNITED STATES" WHICH IS A NON U.S. CITIZEN, A NON-RESIDENT ALIEN OR A PERSON WITHOUT CLAIM TO U.S. CITIZENSHIP) SEEKS AVIATION INSTRUCTION IN THE OPERATION OF AIRCRAFT WITH A MAXIMUM CERTIFICATED TAKEOFF WEIGHT OF 12,500 POUNDS OR MORE FROM A PROVIDER, AS DEFINED IN THE ACT, THE PROVIDER MUST NOTIFY THE ATTORNEY GENERAL OF THE UNITED STATES. THE PROVIDER MUST SUBMIT REQUIRED IDENTIFYING INFORMATION TO ALLOW DOJ TO DO A SECURITY RISK ASSESSMENT ON THE PERSON. THE TERM "PROVIDER" MEANS INDIVIDUAL TRAINING PROVIDERS, TRAINING CENTERS, CERTIFICATED CARRIERS, AND FLIGHT SCHOOLS REGULATED BY

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FAA. THIS COVERS VIRTUALLY ALL PRIVATE SOURCES OF AVIATION TRAINING IN THE UNITED STATES. IN ADDITION, OCONUS SOURCES OF TRAINING ARE INCLUDED IF THE OCONUS PROVIDER IS AUTHORIZED BY THE FAA TO AWARD U.S. LICENSES, CERTIFICATES OR RATINGS. PROVIDERS ARE PROHIBITED FROM PROVIDING TRAINING UNTIL THE PROSPECTIVE STUDENT HAS BEEN SCREENED AND APPROVED. HOWEVER, THE APPROVAL PROCESS DOES NOT APPLY TO DOD OR USCG TRAINING BECAUSE SUCH TRAINING IS NOT REPEAT IS NOT SUBJECT TO FAA REGULATIONS EVEN IF A PRIVATE ENTITY IS PROVIDING TRAINING PURSUANT TO A CONTRACT WITH THE DOD OR THE USCG FOR A MILITARY PURPOSE.

3. WHAT DOES THE NEW SCREENING REQUIREMENT MEAN FOR THE IMET/FMS TRAINING EXCHANGE OR OTHER DOD OR USCG PROGRAMS?

THE NEW SCREENING REQUIREMENT DOES NOT APPLY. WHEN THE DOD OR THE USCG, OR AN ENTITY PROVIDING TRAINING PURSUANT TO A CONTRACT WITH DOD OR THE USCG, PROVIDES TRAINING FOR A MILITARY PURPOSE, SUCH TRAINING IS "NOT" SUBJECT TO FAA REGULATION AND THEREFORE THESE ENTITIES, WHEN PROVIDING SUCH TRAINING, ARE NOT "PERSON(S) SUBJECT TO REGULATION UNDER THIS PART" WITHIN THE MEANING OF SECTION 113

4. WHAT DOES THE NEW SCREENING REQUIREMENT MEAN FOR DIRECT COMMERCIAL SALES (DCS) AVIATION TRAINING?

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THE NEW SCREENING REQUIREMENTS MAY APPLY.

THE INTERIM RULE ONLY COVERS EXPEDITED PROCESSING FOR AVIATION TRAINING OF ALIENS IN THREE (3) CATEGORIES WHO PRESENT LITTLE RISK TO AVIATION OR NATIONAL SECURITY BECAUSE THESE ALIENS HAVE ALREADY BEEN TRAINED AS PILOTS.

THE DOJ WILL ISSUE A SEPARATE PROPOSED RULE TO ADDRESS TRAINING FOR ALIENS WHO DO NOT FALL WITHIN A CATEGORY OF EXPEDITED PROCESSING DESCRIBED IN THE 14 JUNE INTERIM RULE. DSCA WILL PROVIDE FURTHER INFORMATION TO THE TRAINING COMMUNITY AFTER THE SEPARATE PROPOSED RULE IS PUBLISHED.

5. WHAT CATEGORIES OF ALIENS ARE ELIGIBLE FOR EXPEDITED PROCESSING UNDER THE JUNE 2002 INTERIM RULE?

ONLY CERTAIN ALIENS QUALIFY FOR EXPEDITED SCREENING. THERE ARE THREE CATEGORIES.

THE FIRST CATEGORY CONSISTS OF FOREIGN NATIONALS WHO ARE CURRENT AND QUALIFIED AS PILOT IN COMMAND, SECOND IN COMMAND, OR FLIGHT ENGINEER WITH RATINGS RECOGNIZED BY THE U.S. FOR AIRCRAFT WITH A MAXIMUM CERTIFICATED TAKEOFF WEIGHT OF 12,500 POUNDS OR MORE, OR, REPEAT OR WHO ARE CURRENTLY EMPLOYED BY U.S. AIR CARRIERS WITH A MAXIMUM CERTIFICATED TAKEOFF WEIGHT OF 12,500 OR MORE;

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THE SECOND CATEGORY CONSISTS OF COMMERCIAL GOVERNMENTAL, CORPORATE, OR MILITARY PILOTS OF AIRCRAFT WITH A MAXIMUM CERTIFICATED TAKEOFF WEIGHT OF 12,500 POUNDS OR MORE WHO MUST RECEIVE FAMILIARIZATION TRAINING ON A PARTICULAR AIRCRAFT IN ORDER TO TRANSPORT IT TO THE PURCHASER OR RECIPIENT, PROVIDED THAT THE TRAINING PROVIDED IS LIMITED TO FAMILIARIZATION. FAMILIARIZATION TRAINING IS LIMITED TO THAT REQUIRED TO BECOME PROFICIENT IN CONFIGURATIONS AND VARIATIONS OF AN AIRCRAFT AND DOES NOT INCLUDE INITIAL QUALIFICATION OR TYPE RATING FOR AN AIRCRAFT.

THE THIRD CATEGORY CONSISTS OF MILITARY OR LAW ENFORCEMENT PERSONNEL WHO MUST RECEIVE TRAINING ON A PARTICULAR AIRCRAFT GIVEN BY THE UNITED STATES TO A FOREIGN GOVERNMENT PURSUANT TO A DRAW-DOWN AUTHORIZED BY THE PRESIDENT UNDER SECTION 506(A) (A) (2) OF THE FOREIGN ASSISTANCE ACT OF 1961 AS AMENDED (22 U.S.C. 2318(A) (2) PROVIDED THAT THE TRAINING PROVIDED BE LIMITED TO FAMILIARIZATION

6. IN SUMMARY: SCREENING REQUIREMENTS ESTABLISHED PURSUANT TO SECTION 113 OF THE ATSA DO NOT APPLY TO FLIGHT/AIRCREW TRAINING CANDIDATES RECEIVING TRAINING FROM DOD OR THE USCG, OR UNDER DOD OR USCG CONTRACTS, TO INCLUDE IMET, FMS, EXCHANGE TRAINING OR TRAINING UNDER OTHER DOD OR USCG AUTHORITIES. THIS STATEMENT SHOULD BE

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INCORPORATED INTO PREDEPARTURE BRIEFINGS GIVEN BY ODCS.

7. THE DSCA POINT OF CONTACT FOR THIS MESSAGE IS BRION MIDLAND
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BRION.MIDLAND@OSD.PENTAGON.MIL. THE DSCA GENERAL COUNSEL IS D. KAY
CANNON, PHONE (703) 604-6587; E-MAIL: CANNONK@OSD.PENTAGON.MIL.

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