

LEGAL UPDATES

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FAA Changes the BARR Program to Allow Access to Private Flight Data

Current Participants Must Apply for Continued Participation by July 14th

Beginning August 2, 2011, the Federal Aviation Administration's Block Aircraft Registration Request program will undergo significant changes that may subject private aircraft operators to unauthorized monitoring of information concerning an aircraft's flight plan. In order to remain in the program and prevent the unauthorized monitoring of a private aircraft's movements, current participants must inform the FAA before July 14, 2011 by submitting a written notice of a Certified Security Concern.

To establish a Certified Security Concern, the applicant must demonstrate one of the following:

A "valid security concern." Guidance released from the FAA indicates that operators must show "a verifiable threat to person, property or company, including a threat of death, kidnapping or serious bodily harm, a recent history of violent terrorist activity in the area in which the aircraft will operate, or a threat against a company."

That there is a bona fide business-oriented security concern under Treasury Regulation 1.132-5(m).

In either case, a generalized concern for safety is not enough. The FAA stated that there must be a specific basis for the security concern cited in the notice.

The notice should also include:

The make, model, serial number and registration number for each aircraft covered by the BARR program;

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A certification stating that either a valid security concern or a business-oriented security concern under the Treasury Regulations exists; and

A request that the FAA block the aircraft flight data at either the Aircraft Situation Display to Industry level (recommended) or at the FAA level.

We recommend that private aircraft operators who currently participate in the BARR program prepare the requisite notice for continued and uninterrupted enrollment in the program and transmit the notice via email to CertifiedSecurityConcern@faa.gov, with a copy sent (including delivery confirmation) to:

FAA Certified Security Concern
ATO System Operations Services
Room 1002
800 Independence Avenue, SW
Washington, DC 20591

Contact Info

If you have any questions about continued participation in the BARR program or would like information concerning first-time enrollment in the program, please contact David C. Agee at 417.268.4066 or Michael Cosby at 417.268.4110.

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