FAA Moves To Disallow Blocked Aircraft Information

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Privacy in aircraft operations are important to many owners and operators. However, a recent FAA proposal may greatly limit the privacy of your US aircraft operations. In the past, the FAA has allowed general aviation operators to block aircraft identification numbers, which provided limited access to the public regarding information about blocked aircraft movement. Following a lawsuit over the release of the information, the FAA published a Notice of Proposed Modification (NPM) in the Federal Register on March 4, 2011 which would allow greater access to flight information.

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The FAA receives information about each IFR flight and incorporates this information into a visual system which is also available to subscribers. Previously, the FAA collected requests from aircraft owners or operators to exclude their aircraft from the data-feeds available to the public. You may be familiar with the BARR (block aircraft registration request) program operated by the National Business Aviation Association (NBAA).

Per the NPM, the FAA plans to permit aircraft exclusion from the data-feeds available to the public only in very limited circumstances.

To have the FAA block a general aviation aircraft registration number, an aircraft owner or operator must provide the FAA, at least annually, a written certification that either:

a. the facts and circumstances establish a Valid Security Concern regarding the security of the owner's or operator's aircraft or aircraft passengers; or
b. the aircraft owner or operator satisfies the requirements for a bona fide business-oriented security concern under Treasury Regulation 1.132-5(m) ``Employer-provided transportation for security concerns".

If an operator wants to utilize subpart (a) above to continue or start to block aircraft identification numbers from public data-feeds, the facts and circumstances must establish a "Valid Security Concern". A Valid Security Concern is defined in the NPM as a verifiable threat to person, property or company, including a threat of death, kidnapping or serious bodily harm against an individual, a recent history of violent terrorist activity in the geographic area in which the transportation is provided, or a threat against a company. A general concern about safety is not enough to establish a Valid Security Concern.

Many aircraft owners/ operators will not be able to satisfy the Treasury Regulation requirements in subpart (b) above. It requires that an employer have a specific basis for a security concern and establish that concern either to the satisfaction of the IRS, through an independent security study, or as a result of an overall security program. Fortunately, as of a version of the FAA Reauthorization and Reform Act of 2011 (H.R. 658) filed with the Rules Committee in the House of Representatives on March 29, 2011, an allowance was added that would preserve the BARR program. If this is passed in this form, it may alleviate the concerns of many aircraft owners.

You can read the entire FAA Notice of Proposed Modification at: http://edocket.access.gpo.gov/2011/2011-4955.htm. Comments are listed as due on or before April 4, 2011.

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