

[4910-13]

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 91**

**[Docket No. 26242; Notice No. 00-01 ]**

**RIN 2120-AF30**

**Suspension of Certain Aircraft Operations from the Transponder With Automatic Pressure Altitude Reporting Capability Requirement**

**AGENCY:** Federal Aviation Administration (FAA), DOT

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The FAA is withdrawing a proposal to reinstate and modify the provisions of expired Special Federal Aviation Regulation (SFAR) No. 62. SFAR No. 62 suspended certain regulations requiring the installation and use of a transponder with automatic altitude reporting capability within 30 nautical miles of a Class B airspace area primary airport. SFAR No. 62 expired on December 30, 1993. The proposed reinstatement was intended to provide additional time during which aircraft operators could equip their aircraft with automatic altitude reporting transponders. Ten years have passed since implementation of the requirement to install and use automatic altitude reporting transponders in aircraft operating within 30 nautical miles of a Class B airspace area. The FAA finds that ample time has been provided for affected operators to comply with this equipment requirement. Consequently the FAA believes that the relief provided by the proposed regulation is no longer needed. Therefore, the FAA is withdrawing this proposal.

**DATES:** The proposed rule published on August 25, 1994 (59 FR 43994), is withdrawn as of January 13, 2000.

**FOR FURTHER INFORMATION CONTACT:** Ellen Crum, Airspace and Rules Division, ATA-400, Air Traffic Airspace Management Program, Federal Aviation Administration, 800 Independence Ave, SW, Washington, DC 20591; telephone: (202) 267-8783.

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 21, 1988, the FAA published a final rule, the Transponder with Automatic Altitude Reporting Capability Requirement (53 FR 23356; June 21, 1988), which required aircraft operating within 30 nautical miles of a Class B airspace area primary airport (commonly referred to as the Mode C veil) to be equipped with an operable transponder with automatic altitude reporting capability. Aircraft not originally certificated with an engine-driven electrical system or not subsequently certificated with such a system installed, balloons, and gliders were excluded from this requirement.

On December 5, 1990, the FAA published a final rule, SFAR No. 62 (55 FR 50302; Dec. 5, 1990), which suspended the automatic altitude reporting transponder requirement for certain aircraft operations in the vicinity of approximately 300 airports in the outlying area of Mode C veils but outside of the confines of the Class B airspace area. Specifically, SFAR No. 62 allowed for the operation of aircraft not equipped with an operable automatic altitude reporting transponder in the airspace at or below the altitude specified in the rule for the airport or along the most direct and expeditious routing (or on

a routing directed by air traffic control (ATC)) between those airports and the outer boundary of the Mode C veil, consistent with established traffic patterns, noise abatement procedures, and safety. The purpose of SFAR No. 62 was to provide a limited transition period to allow operators flexibility in equipping their aircraft with transponders within a reasonable timeframe.

Prior to the adoption of SFAR No. 62, requests to deviate from the automatic altitude reporting transponder requirements were handled by ATC facilities on a case-by-case basis. If approved, the ATC authorization specified all restrictions or conditions necessary to ensure that the operation could be conducted safely and without any impact on other operations. The authorization process proved to be inefficient and time consuming for operators and ATC staff due to the very high number of operators requesting ATC authorizations because they had not yet equipped their aircraft with the required transponders.

On August 25, 1994, the FAA published a notice of proposed rulemaking (NPRM) (59 FR 43994; Aug. 25, 1994) that proposed, with some minor modifications, to reinstate the expired provisions of SFAR No. 62 as SFAR No. 62-1. The NPRM identified and excluded those airports where aircraft operations cannot be detected by radar when those operations are conducted at or below a specified altitude and within a 2-nautical-mile radius of the airport, or along the most direct route between that airport and the outer boundary of the Mode C veil. Airports served primarily by aircraft required to be equipped with Traffic Collision Avoidance System (TCAS) also were excluded from the list of airports where SFAR No. 62-1 would apply. The NPRM proposed to modify the expired SFAR No. 62 by revising the altitudes below which automatic altitude

reporting transponders would not be required in the vicinity of certain airports where radar upgrades warranted such revisions. Lastly, the NPRM proposed modifications to the list of airports within the Denver Mode C veil at which aircraft operations were excluded from the automatic altitude reporting transponder requirement.

### **Discussion of Public Comments**

Interested parties were invited to participate in the rulemaking process by submitting such written data, views, or arguments regarding the proposal. The comment period originally was scheduled to close on October 11, 1994. However, in accordance with 14 CFR 11.29 (c), the Aircraft Owners and Pilots Association (AOPA) requested a 45-day extension of the comment period. The FAA determined that AOPA's request was in the public interest and extended the comment period to November 25, 1994 (59 FR 49360; Sept. 28, 1994).

One hundred fourteen private individuals and 18 associations, including government entities, submitted comments. Because one submission was signed by 13 commenters and another submission was signed by 22 commenters, 99 separate comments were actually received. All comments received during the comment period were considered before making a determination regarding final action on the proposed rule.

Most of the commenters suggest eliminating the automatic altitude reporting transponder equipment requirement when operating within 30 nautical miles of a primary airport listed in section 1 of appendix D to 14 CFR part 91. However, the NPRM did not propose or suggest eliminating the automatic altitude reporting transponder requirement. Specifically, the NPRM proposed to continue, at specific locations and altitudes, a

method that would allow aircraft operators to be exempted from the automatic altitude reporting transponder rule itself. Therefore, since the NPRM proposed no changes to the initial regulations requiring the use of transponders with automatic altitude reporting capability within 30 nautical miles of a Class B airspace area, the FAA finds these comments are outside the scope of this specific rulemaking action.

Several commenters oppose the reinstatement of the provisions of SFAR No. 62. These commenters state that the cost of equipping an aircraft with an automatic altitude reporting transponder is small in absolute terms when compared with the safety benefits provided by a transponder. They argue that the safety benefits include increased situational awareness for controllers and pilots when in contact with ATC. In addition, these commenters believe that excepting aircraft from automatic altitude reporting transponder requirements may compromise the effectiveness of TCAS because TCAS requires automatic altitude reporting transponder replies from nearby aircraft to determine whether a threat of potential collision exists.

The FAA agrees that automatic altitude reporting transponders provide increased benefits for controllers and pilots. If a controller is not yet in radio communication with an aircraft that is equipped with an automatic altitude reporting transponder, the transponder provides altitude information that can be received by other TCAS-equipped aircraft in the area, or ATC, without waiting for the pilot to check onto the ATC frequency. The FAA is not aware of any incidents where safety was compromised due to aircraft operating in accordance with SFAR 62. It is important to note, however, that the expired provisions of SFAR No. 62 and the proposed provisions of SFAR No. 62-1 provide access to outlying airports with a minimum of ATC involvement without

degrading the safety benefits of the Mode C rule. When operating within the Mode C veil area, aircraft not equipped with an altitude encoding transponder can be accommodated safely, provided that operations are conducted in accordance with restrictions set forth in the ATC authorization.

The FAA notes that in the NPRM, the FAA requested specific comments regarding the effectiveness of SFAR No. 62, as well as the number of aircraft operators who had benefited from the SFAR. Commenters did not provide information concerning either the number of operators benefiting from the SFAR, or the number of aircraft that are not equipped with automatic altitude reporting transponders and operating within the Mode C veil areas.

When the FAA promulgated the Mode C veil rule in 1988, the intent was to require all aircraft, with certain regulatory exceptions, to be equipped with an operable altitude encoding transponder when operating within 30 nautical miles of a Class B airspace area primary airport. For those instances where a pilot was unable to comply with this equipment requirement, an ATC authorization could be obtained from the appropriate ATC facility. SFAR No. 62 was promulgated as a temporary measure only to alleviate the workload associated with granting ATC authorizations and to allow additional time for certain operators to equip their aircraft with altitude encoding transponders.

There are no regulations requiring aircraft owners to report the types of transponders installed in their aircraft. Therefore, it is difficult to estimate the number of aircraft that are equipped with altitude reporting transponders. However, in 1995, the FAA published the “General Aviation and Air Taxi Activity and Avionics Survey,”

prepared by the Office of Aviation Policy and Plans (APO-1). The survey provides information about the activity and avionics equipment of the general aviation and air taxi fleet. The information for the survey is collected using a statistically designed sample survey. The sample is selected from all general aviation and air taxi aircraft registered with the FAA. According to this survey, almost 70 percent of fixed wing general aviation aircraft have Mode C or Mode S installed, and almost 60 percent of rotorcraft have Mode C or Mode S installed.

Several years have passed since SFAR No. 62 was promulgated in 1990. The FAA believes that sufficient time has been provided for aircraft operators to purchase and install automatic altitude reporting transponders. Moreover, the best available information indicates that a majority of operators have installed altitude encoding transponders. Those aircraft operators without an operating transponder may use the ATC authorization procedures to get relief from the equipment requirement; therefore, the FAA is withdrawing the proposed rule to reinstate SFAR No. 62. The FAA will continue to assess the impact of the 1988 equipment requirement upon aircraft operators and the National Airspace System.

## **Withdrawal of Proposed Rule**

Accordingly, the proposed amendment to reinstate SFAR No. 62 as SFAR No. 62-1 under 14 CFR Part 91 (Notice No. 94-28), published on page 43994 in the Federal Register of August 25, 1994, is withdrawn.

Issued in Washington, DC on January 7, 2000.

John Walker,  
Program Director, Air Traffic Airspace Management Program.