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.

[FR Doc. 00–864 Filed 1–12–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 129

[Docket No. 27066; Notice No. 92–18]

RIN 2120–AE79

Antidrug Program and Alcohol Misuse Prevention Program for Employees of Foreign Air Carriers Engaged in Specified Aviation Activities

AGENCY: Federal Aviation Administration, DOT.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Omnibus Transportation Employee Testing Act of 1991 (the Act) authorized the Federal Aviation Administration (FAA) Administrator to prescribe regulations that would require foreign air carriers to establish drug and alcohol testing programs for employees performing safety-sensitive aviation functions, but only to the extent such regulations are consistent with the international obligations of the United States and take into consideration any applicable laws and regulations of foreign countries. This document withdraws the proposed rulemaking to require foreign air carriers to establish drug and alcohol testing programs for their employees performing safety-sensitive aviation functions within the territory of the United States. The FAA has determined that through the International Civil Aviation Organization (ICAO) multilateral action has been taken to support an aviation environment free of substance abuse. However, if the threat to aviation safety posed by substance abuse has increased or requires additional efforts and the international community has not adequately responded, the FAA will take appropriate action, including, if necessary, the reinitiation of this rulemaking.

DATES: The proposed rule is withdrawn as of January 13, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Diane J. Wood, Office of Aviation Medicine, Drug Abatement Division (AAM–800), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–8442.

SUPPLEMENTARY INFORMATION:

Background

In the Omnibus Transportation Employee Testing Act of 1991, the Administrator was authorized, among other things, to prescribe regulations requiring foreign air carriers to implement drug and alcohol testing programs, but only if such regulations as were consistent with the international obligations of the United States. The Administrator was also directed to take into consideration foreign laws and regulations.

Pursuant to this statute, in December 1992, the FAA issued an advance notice of proposed rulemaking (ANPRM) in which a number of questions about the legal, practical, and cultural issues associated with testing were posed [57 FR 59473]. The FAA received 65 comments on the ANPRM, most of which were provided by foreign governments of foreign air carriers. Nineteen of the comments were procedural, requesting an extension of the comment period. Three comments were received that supported the concept of unilateral imposition of testing requirements on foreign air carriers. The remaining comments stated objection in whole or in part to the possible unilateral imposition of testing requirements on foreign air carriers in the United States. In February 1994, the FAA issued a notice of proposed rulemaking (NPRM) to require foreign air carriers operating to the United States to implement testing programs like those required of U.S. carriers unless multilateral action was taken to support an international aviation environment free of substance abuse [59 FR 7420].

The FAA cited as a specific example of such action the work in progress by an International Civil Aviation Organization (ICAO) working group to develop guidance material on substance abuse prevention methodologies. ICAO is a treaty organization through which the signatory countries (known as the ''Contracting States'') develop and promote safe and efficient international aviation. There are currently more than 180 Contracting States (including the United States), covering virtually every part of the world. The Contracting States

look to ICAO for standards, recommended practices, and guidance on issues related to aviation.

A significant number of the foreign governments for foreign air carriers that responded to the NPRM expressed support for deferring to ICAO to take action on substance abuse prevention. Their comments also reiterated the concerns expressed following publication of the ANPRM, with further discussion of the possible adverse consequences and costs that would likely follow any imposition of mandatory testing programs. Several commenters noted that the laws of the jurisdiction in which their employees are hired could prohibit employers from complying with mandatory testing regulations imposed by the United States.

The commenters that favored imposition of regulations requiring drug and alcohol testing on foreign air carriers primarily raised two issues: first, that safety demands imposition of the regulations; and second, that U.S. carriers would be placed at a competitive disadvantage by being required to incur costs not faced by foreign air carriers.

With respect to the first concern, the FAA remains committed to ensuring aviation safety. However, in light of recent ICAO action, as well as the significant practical and legal concerns that have been raised by the commenters, it does not appear that this rulemaking at this time is the best way to ensure that safety is not compromised. Because of the ICAO action, the FAA has determined that unilateral imposition of testing regulations on foreign air carriers is not warranted.

Several factors were weighed in making this determination. The FAA has an active program to assess whether foreign air carriers are held to international standards by their countries of registry—standards that include medical requirements for flight crewmembers and a prohibition on the operation of aircraft by impaired pilots.

Also, on February 24, 1998, the 153rd Session of the ICAO Council met and adopted amendments to the Standards and Recommended Practices contained in Appendix A of the Chicago Convention. Specifically, a Standard was adopted which applies to individuals, and prohibits them from performing safety-critical functions while under the influence of any psychoactive substance. A psychoactive substance is defined as ''alcohol, opioids, cannabinoids, sedatives and hypnotics, cocaine, other psychostimulents, hallucinogens, and volatile solvents, whereas coffee and tobacco are excluded.'' The Standards are required to appear within the domestic regulations of each Contracting State, unless the Contracting State has filed a difference with ICAO to disavow the Standard. The ICAO Council also adopted a Recommended Practice which encourages the Contracting States to identify and remove personnel who engage in problematic use of substances. The Recommended Practice incorporates the ''Manual on Prevention of Problematic Use of Substances in the Aviation Workplace,'' ICAO Document 9654–AN/945 (''Manual''), the English version of which was published in September 1995. The FAA has reviewed this document and has determined that it clearly supports a safe aviation environment.

As set forth in the first paragraph of the Manual, ICAO recognizes that ''[a]viation workers have a special obligation to ensure that they are capable of performing their duties to the best of their abilities. Similarly, aviation regulatory authorities and industry employers have a special obligation to ensure that aviation safety is maintained at a high level and that precautions necessary to achieve this are implemented.'' *Id.* at ¶1.1 The Manual further establishes ICAO's concurrence with the position of the FAA that ''[e]specially in international aviation, it is fair to say that the responsibility for hundreds of human lives and vast quantities of valuable property resting with safety-sensitive personnel in civil aviation make it imperative that these workers perform their duties in a professional manner and without any impairment in performance due to substance use.'' *Id.* at ¶ 1.15 Finally, ICAO also recognizes that far from being simply a U.S. problem, as some commenters to this rulemaking have asserted, ''[i]t is necessary that aviation regulators and employers recognize that substance use is a pandemic affecting most if not all parts of the world.'' They must also realize that ''any employee may be susceptible to the pressures and influences of the professional and social environment or certain life events, and it would be dangerous to assume that aviation is not vulnerable to t he consequences of these pressures and influences. *Prevention efforts should not be delayed until a significant problem has been identified. Responding only after an accident has occurred or public trust has been broken defeats the purpose of prevention.'' Id* at ¶ 1.20 (emphasis added).

The other issue raised by commenters is that of competitive disadvantage. While the FAA is cognizant of the costs of the antidrug rules to domestic carriers, those costs alone do not warrant imposition of similar regulations on foreign air carriers when compared to recent multilateral actions as well as the legal and practical difficulties in imposing such rules. The FAA has also determined that the antidrug rules provide significant benefits to U.S. air carriers in terms of increased worker productivity, reduced absenteeism and medical costs, and other benefits associated with workplace substance abuse prevention programs. Further, companies with active prevention programs could be perceived by travelers (especially those in the United States) as safer than companies without such programs providing another benefit to domestic carriers.

Withdrawal of Proposed Rule

For the foregoing reasons, the FAA is withdrawing the rulemaking proposed on February 15, 1994, and is leaving within the purview of each government the method chosen to respond to the ICAO initiatives. We will continue to view a multilateral response as the best approach to evolving issues in the substance abuse arena. Should the FAA subsequently determine, however,that the scope of the threat of substance abuse is not being adequately addressed by the international community, the FAA will take appropriate action, including the possible reinitiation of this rulemaking.

Issued in Washington, DC, on January 10, 2000.

Robert Poole,

Acting Federal Air Surgeon.

[FR Doc. 00–862 Filed 1–12–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 604

RIN 1205–AB21

Birth and Adoption Unemployment Compensation; Extension of Comment Period

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: This document extends by 15 days the period for filing comments regarding a notice of proposed