

improvement plan (CIP) to fully meet the requirements of this paragraph and to improve direct certification for the following school year in accordance with the provisions in paragraphs (e), (f), and (g) of this section.

(b) *Direct certification performance benchmarks.* State agencies must meet performance benchmarks for directly certifying for free school meals children who are members of households receiving assistance under SNAP. The performance benchmarks are as follows:

(1) 80% for the school year beginning July 1, 2011;

(2) 90% for the school year beginning July 1, 2012; and

(3) 95% for the school year beginning July 1, 2013, and for each school year thereafter.

(c) *Data elements required for direct certification rate calculation.* Each State agency must provide FNS with specific data elements each year, as follows:

(1) *Data Element #1*—The number of children who are members of households receiving assistance under SNAP that are directly certified for free school meals as of the last operating day in October, collected and reported in the same manner and timeframes as specified in § 245.11(i).

(2) *Data Element #2*—The unduplicated count of children ages 5 to 17 years old who are members of households receiving assistance under SNAP at any time during the period July 1 through September 30. This data element must be provided by the SNAP State agency, as required under 7 CFR 272.8(a)(5), and reported to FNS and to the State agency administering the NSLP in the State by December 1st each year, in accordance with guidelines provided by FNS.

(3) *Data Element #3*—The count of the number of children who are members of households receiving assistance under SNAP who attend a school operating under the provisions of 7 CFR 245.9 in a year other than the base year or that is exercising the community eligibility option (CEO). The proxy for this data element must be established each school year through the State's data matching efforts between SNAP records and student enrollment records for these special provision schools that are operating in a non-base year or that are exercising the CEO. Such matching efforts must occur in or close to October each year, but no later than the last operating day in October. However, States that have special provision schools exercising the CEO may alternatively choose to include, for these schools, the count of the number of identified students directly matched with SNAP used in determining the

CEO claiming percentage for that school year, or they may choose to use the count from the SNAP match conducted by April 1 of the same calendar year, whether or not it was used in the CEO claiming percentages. State agencies must report this aggregated data element to FNS by December 1st each year, in accordance with guidelines provided by FNS.

(d) *State notification.* For each school year, FNS will notify State agencies that fail to meet the direct certification performance benchmark.

(e) *Continuous improvement plan required.* A State agency having a direct certification rate with SNAP that is less than the direct certification performance benchmarks set forth in paragraph (b) of this section must submit to FNS for approval, within 90 days of notification, a CIP in accordance with paragraph (f) of this section.

(f) *Continuous improvement plan required components.* CIPs must include, at a minimum:

(1) The specific measures that the State will use to identify more children who are eligible for direct certification, including improvements or modifications to technology, information systems, or databases;

(2) A multiyear timeline for the State to implement these measures;

(3) Goals for the State to improve direct certification results for the following school year; and

(4) Information about the State's progress toward implementing other direct certification requirements, as provided in FNS guidance.

(g) *Continuous improvement plan implementation.* A State must maintain its CIP and implement it according to the timeframes in the approved plan.

## PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

■ 5. The authority citation for 7 CFR part 272 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036.

■ 6. Section 272.8 is amended by adding a new paragraph (a)(5) to read as follows:

### § 272.8 State income and eligibility verification system.

(a) \* \* \*

(5) State agencies must provide information to FNS and to the State agencies administering the National School Lunch Program for the purpose of direct certification of children for school meals as described in § 245.12(c)(2) of this chapter. In addition, State agencies must execute a data exchange and privacy agreement in

accordance with paragraph (a)(4) of this section and § 272.1(c).

\* \* \* \* \*

Dated: February 4, 2013.

**Audrey Rowe,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 2013–04118 Filed 2–21–13; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2013–0091; Directorate Identifier 2013–NM–016–AD; Amendment 39–17366; AD 2013–02–51]

**RIN 2120–AA64**

### Airworthiness Directives; The Boeing Company Airplanes

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 787–8 airplanes. This emergency AD was sent previously to all known U.S. owners and operators of these airplanes. This AD requires modification of the battery system, or other actions. This AD was prompted by recent incidents involving lithium ion battery failures that resulted in release of flammable electrolytes, heat damage, and smoke. We are issuing this AD to correct damage to critical systems and structures, and the potential for fire in the electrical compartment.

**DATES:** This AD is effective February 22, 2013 to all persons except those persons to whom it was made immediately effective by Emergency AD 2013–02–51, issued on January 16, 2013, which contained the requirements of this amendment.

We must receive comments on this AD by April 8, 2013.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

• *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

• *Fax:* 202–493–2251.

• *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5

p.m., Monday through Friday, except Federal holidays.

### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations Office (phone: 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

### FOR FURTHER INFORMATION CONTACT:

Robert Duffer, Manager, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057-3356; phone: 425-917-6493; fax: 425-917-6590; email: [Robert.Duffer@faa.gov](mailto:Robert.Duffer@faa.gov).

### SUPPLEMENTARY INFORMATION:

#### Discussion

On January 16, 2013, we issued Emergency AD 2013-02-51, which requires modification of the battery system, or other actions. This emergency AD was sent previously to all known U.S. owners and operators of these airplanes. This action was prompted by recent incidents involving lithium ion battery failures that resulted in release of flammable electrolytes, heat damage, and smoke on two Model 787-8 airplanes. The cause of these failures is currently under investigation. These conditions, if not corrected, could result in damage to critical systems and structures, and the potential for fire in the electrical compartment.

### FAA's Determination

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

### AD Requirements

This AD requires modification of the battery system, or other actions, in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA.

### Interim Action

We consider this AD interim action. As the investigation progresses, we might determine that additional action is necessary.

### FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because of recent incidents involving lithium ion battery failures that resulted in release of flammable electrolytes, heat damage, and smoke on two Model 787-8 airplanes. These conditions, if not corrected, could result in damage to critical systems and structures, and the potential for fire in the electrical compartment. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

### Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA-2013-0091; and Directorate Identifier 2013-NM-016-AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

### Costs of Compliance

We estimate that this AD affects 6 airplanes of U.S. registry.

Currently, we have received no definitive data that would enable us to provide cost estimates for the actions required by this AD. As indicated earlier in this preamble, we specifically invite the submission of comments and other data regarding the costs of this AD.

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs describes in more

detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

#### 2013-02-51 The Boeing Company:

Amendment 39-17366; Docket No. FAA-2013-0091; Directorate Identifier 2013-NM-016-AD.

**(a) Effective Date**

This AD is effective February 22, 2013 to all persons except those persons to whom it was made immediately effective by Emergency AD 2013–02–51, issued on January 16, 2013, which contained the requirements of this amendment.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all The Boeing Company Model 787–8 airplanes, certificated in any category.

**(d) Subject**

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 24, Electrical power.

**(e) Unsafe Condition**

This AD was prompted by recent incidents involving lithium ion battery failures that resulted in release of flammable electrolytes, heat damage, and smoke on two Model 787–8 airplanes. The cause of these failures is currently under investigation. We are issuing this AD to prevent damage to critical systems and structures, and the potential for fire in the electrical compartment.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Modification or Other Action**

Before further flight, modify the battery system, or take other actions, in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA.

**(h) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: [9-ANM-Seattle-ACO-AMOC-Requests@faa.gov](mailto:9-ANM-Seattle-ACO-AMOC-Requests@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

**(i) Related Information**

For more information about this AD, contact: Robert Duffer, Manager, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6493; fax: 425–917–6590; email: [Robert.Duffer@faa.gov](mailto:Robert.Duffer@faa.gov).

**(j) Material Incorporated by Reference**

None.

Issued in Renton, Washington, on February 1, 2013.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2013–04004 Filed 2–21–13; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 61****Policy Clarification on Charitable Medical Flights**

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

**ACTION:** Notice of Policy.

**SUMMARY:** The FAA is issuing this notice of policy to describe its policy for volunteer pilots operating charitable medical flights. Charitable medical flights are flights where a pilot, aircraft owner, and/or operator provides transportation for an individual or organ for medical purposes. This notice of policy is in response to Section 821 of Public Law 112–95, Clarification of Requirements for Volunteer Pilots Operating Charitable Medical Flights.

**DATES:** This action becomes effective on February 22, 2013.

**FOR FURTHER INFORMATION CONTACT:** John Linsenmeyer, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; fax (202) 385–9612; email [john.linsenmeyer@faa.gov](mailto:john.linsenmeyer@faa.gov).

**SUPPLEMENTARY INFORMATION:****Background**

Section 61.113(a) of Title 14 Code of Federal Regulations (14 CFR) states that no person who holds a private pilot certificate may act as pilot in command of an aircraft that is carrying passengers or property for compensation or hire; nor may that person, for compensation or hire, act as pilot in command of an aircraft.

Section 61.113(c) states that, for any flight carrying passengers, a private pilot may not pay less than the pro rata share of the operating expenses (fuel oil, airport expenditures, or rental fees). This prohibition means that a private pilot can pay more, but not less, of these expenses when split equally among all the people aboard the aircraft. Private pilot certificates are considered to be an entry-level pilot's license, and the purpose of this regulation is to limit the operations of private pilots commensurate to their certification level. Pilots wishing to pay less than

their pro rata share (or fly for hire) must obtain a commercial pilot certificate, which has higher certification requirements and may be required to comply with additional operating requirements.

Some pilots and other individuals have recognized a need to provide transportation services for conveyance of people needing non-emergency medical treatment. Section 821 of Public Law 112–95, requires, with certain limitations, that the FAA allow an aircraft owner or operator to accept reimbursement from a volunteer pilot organization for the fuel costs associated with a flight operation to provide transportation for an individual or organ for medical purposes (and for other associated individuals).

Volunteer pilot organizations have petitioned the FAA for exemption from the requirements of § 61.113(c) so that their pilots can be reimbursed for some or all of the expenses they incur while flying these flights. To allow compensation for expenses for the transportation of individuals, these private pilots are participating in an activity that would otherwise be prohibited by § 61.113(c).

The FAA has determined this activity can be conducted safely with limits applied to the organizations, pilots, and aircraft. Beginning in 2010, the FAA issued several exemptions to charitable medical flight organizations granting relief from the requirements of § 61.113(c). The exemptions contain conditions and limitations that are intended to raise the level of safety for these flights. These conditions and limitations include:

1. Developing of a pilot qualification and training program;
2. Authenticating pilots' FAA certification;
3. Requiring flight release documentation;
4. Imposing minimum pilot qualifications (flight hours, recency of experience, etc.);
5. Requiring a 2nd class FAA medical certificate;
6. Requiring the filing of an instrument flight plan for each flight;
7. Restricting pilots to flight and duty time limitations;
8. Requiring mandatory briefings for passengers;
9. Imposing higher aircraft airworthiness requirements; and
10. Requiring higher instrument flight rules (IFR) minimums.

The FAA recognizes the practical implications and benefits from this type of charity flying and will continue to issue exemptions for flights described