

statutes, the activities and operations of a national bank depend on the laws of the state in which the bank is located.

Generally, for many of these statutes, banks have been considered located in a state where they have a main office or a branch. For some statutes, only the main office is considered. For others, a bank has been considered located in a state with a non-branch office, as well as the states of its main office and branches. Moreover, the determination of the bank's location focuses on the location of the bank's offices and activities, not the location of the bank's customers.

We invite comment on whether new developments in bank technology require the OCC to address how "location" applies in the context of activities conducted via the Internet. Specifically, is the determination of "location" for purposes of the statutes an impediment to national banks conducting all or part of their operations on the Internet? If so, should we further clarify our regulations on this issue? Is there a uniform approach to "location" that works for all the relevant statutes or should we address each statute separately?

### 3. Operational Issues: How Can the OCC Enhance the Operational Flexibility of Banks Engaging in Electronic Banking, Consistent With Safety and Soundness?

#### A. Marketing Access Arrangements

The rapid growth of electronic commerce has resulted in many marketing arrangements involving providing bank customers with access to providers of retail or financial services through hypertext links on the bank's Web site. Under some marketing arrangements, the bank is the dominant brand and refers its customers to non-bank third parties for additional products and services not provided by the bank directly. In other cases, the non-bank is the dominant brand and it uses a bank to provide its customers with access to bank services while minimizing the bank's brand.

It is well settled that a national bank may lease excess space on bank premises to other businesses and share space jointly with other businesses, subject to certain conditions. These conditions, which are currently set forth

legal holiday on shareholders' meeting), 85 (allowable interest rate), 90 (pledging security for deposits of state funds), 92 (insurance sales), 92a (fiduciary powers), 95 (state-declared bank holidays), 182 (publication of notice of voluntary liquidation), 214a & 214c (national bank conversions and mergers into state banks) & 215a (national bank and state bank mergers into national banks); 28 U.S.C. 1348 (citizenship of state for federal court jurisdiction).

in the OCC's regulation governing the sharing of space and employees, are intended to minimize customer confusion about the nature of the products offered and promote the safe and sound operation of the bank. See 12 CFR 7.3001.

We invite comment on whether the OCC should issue a regulation similar to § 7.3001 that would apply to these types of electronic marketing arrangements. Commenters are specifically requested to address whether any or all of the supervisory conditions set forth in § 7.3001(c) are relevant in the electronic banking context and whether other conditions intended to minimize customer confusion should apply to these arrangements.

#### B. Branching

National banks may receive deposits and pay withdrawals in a variety of ways that are not subject to geographical restrictions or the need to apply for branch certification. For example, it is well settled that national banks may arrange to have their customers use ATMs established by third parties in order to undertake transactions with the bank. In 1996, Congress passed legislation permitting national banks to establish ATMs and remote service units (RSUs) without geographical limits or the need to seek approval to establish these types of facilities.<sup>10</sup>

Both Congress, through legislation, and the OCC, through interpretation, also permit national banks to arrange for their customers to undertake banking transactions with the national bank through offices of affiliated banks and thrifts without implicating branching restrictions. Additionally, the OCC has established guidelines to enable national banks and their customers to transact business with each other through messenger services without implicating branching restrictions. Of course, national banks and their customers can transact business electronically without raising branching concerns.

The OCC seeks comment on whether these forms of delivery systems are flexible enough to permit technology-based banks to serve the transaction-related needs of their retail, as well as their commercial, customers. Specifically, are existing regulations

<sup>10</sup> The OCC recently defined an RSU as "an automated facility, operated by a customer of a bank, that conducts banking functions, such as receiving deposits, paying withdrawals, or lending money." The term RSU includes ATMs, automated loan machines, and automated devices for receiving deposits, and may be equipped with a telephone or televideo device that allows contact with bank personnel. 64 FR 60,092, 60,100 (Nov. 4, 1999) (adding 12 CFR 7.4003).

sufficient to permit customers of technology-based banks to make deposits in the bank by cash or check in an efficient and expeditious manner? Additionally, are there other types of transactions that banks are considering where geographical restrictions create impediments or that could benefit from the development of alternative delivery systems not within the scope of branching restrictions?

Dated: January 21, 2000.

**John D. Hawke, Jr.,**

*Comptroller of the Currency.*

[FR Doc. 00-2199 Filed 2-1-00; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 99-NM-203-AD]

RIN 2120-AA64

#### Airworthiness Directives; Empresa Brasileira de Aeronautica, S.A. (EMBRAER), Model EMB-145 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the superseding of an existing airworthiness directive (AD), applicable to all Empresa Brasileira de Aeronautica, S.A. (EMBRAER), Model EMB-145 series airplanes, that currently requires repetitive emergency extension (free-fall) functional tests of the nose landing gear (NLG), and lubrication of all NLG hinge points, to ensure that the NLG extends and locks down properly; and corrective action, if necessary. This action would require a terminating modification that includes replacement of the NLG door solenoid valve with an improved valve; replacement of the landing gear (LG) safety pins holder with an improved holder; and replacement of the NLG maneuvering actuator with an improved actuator. This proposed action would also limit the applicability of the existing AD. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent failure of the NLG to extend and lock down properly, which could result in damage to the airplane structure, and consequent

reduced controllability of the airplane upon landing.

**DATES:** Comments must be received by March 3, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 99-NM-203-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

**FOR FURTHER INFORMATION CONTACT:** Rob Capezzuto, Aerospace Engineer, Systems and Flight Test Branch, ACE-116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703-6071; fax (770) 703-6097.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments

submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99-NM-203-AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 99-NM-203-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

**Discussion**

On June 16, 1998, the FAA issued AD 98-13-34, amendment 39-10625 (63 FR 34274, June 24, 1998), applicable to all EMBRAER Model EMB-145 series airplanes, to require repetitive emergency extension (free-fall) functional tests of the nose landing gear (NLG), and lubrication of all NLG hinge points, to ensure that the NLG extends and locks down properly; and corrective action, if necessary. That action was prompted by a report indicating that the NLG on a Model EMB-145 series airplane failed to extend and lock down upon landing, even after accomplishment of procedures for abnormal emergency landing gear extension by the override switch and free-fall mechanism. The requirements of that AD are intended to prevent damage to the airplane structure, and consequent reduced controllability of the airplane upon landing.

**Actions Since Issuance of Previous Rule**

The actions required by AD 98-13-34 were defined as interim actions until a permanent modification could be developed. Since the issuance of that AD, EMBRAER has determined that the unsafe condition can be eliminated by replacement of the NLG door solenoid valve with a new valve; replacement of the landing gear (LG) safety pins holder with a new holder; and by replacement of the NLG maneuvering actuator with a new actuator. The Departamento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, issued Brazilian airworthiness directive 98-05-01R1, dated July 8, 1999, to require these replacements.

EMBRAER has advised the FAA that a new NLG door solenoid valve, safety pins, and safety pins holder have been installed during production on Model EMB-145 series airplanes having serial numbers (S/N) 145001 through 145003 inclusive, and 145088 and subsequent. EMBRAER has also advised the FAA that a new NLG maneuvering actuator has been installed during production for

Model EMB-145 airplanes S/N 145001 through 145003 inclusive, 145104, and 145107 and subsequent. Therefore, only Model EMB-145 series airplanes, S/N 145004 through 145103 inclusive, 145105, and 145106 are subject to the unsafe condition.

**Explanation of Relevant Service Information**

EMBRAER has issued Service Bulletin 145-32-0036, dated February 1, 1999, which describes procedures for replacing the NLG door solenoid valve with a new valve; and replacement of the LG safety pins holder with a new holder.

EMBRAER also has issued Service Bulletin 145-32-0037, dated February 12, 1999, which describes procedures for replacing the NLG maneuvering actuator with a new actuator.

The DAC classified these service bulletins as mandatory and issued Brazilian airworthiness directive 98-05-01R1, dated July 8, 1999, in order to assure the continued airworthiness of these airplanes in Brazil.

**FAA's Conclusions**

This airplane model is manufactured in Brazil and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

**Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 98-13-34 to continue to require actions specified in that AD. This proposed AD would also require accomplishment of the actions specified in the service bulletins described previously.

**Cost Impact**

There are approximately 66 airplanes of U.S. registry that would be affected by this proposed AD.

The actions that are currently required by AD 98-13-34, and continue to be required by this proposed AD, take approximately 4 work hours per

airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be \$15,840, or \$240 per airplane, per inspection cycle.

The new replacements that are proposed in this AD action would take approximately 6 work hours (3 work hours per airplane for the solenoid/holder replacement) and 3 work hours per airplane for the actuator replacement, at an average labor rate of \$60 per work hour. EMBRAER and Libherr Aerospace Linberg have previously committed to supplying the necessary parts free of charge. Based on these figures, the cost impact of the proposed replacements required by this AD on U.S. operators is estimated to be \$23,760, or \$360 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

### Regulatory Impact

The regulations proposed herein would not have substantial direct effects 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. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, 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. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation

Administration proposes to amend part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by removing amendment 39-10625 (63 FR 34274, June 24, 1998), and by adding a new airworthiness directive (AD), to read as follows:

**Empresa Brasileira de Aeronautica S.A. (EMBRAER):** Docket 99-NM-203-AD. Supersedes AD 98-13-34, Amendment 39-10625.

**Applicability:** Model EMB-145 series airplanes, serial numbers 145004 through 145103 inclusive, 145105, and 145106; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent failure of the nose landing gear (NLG) to extend and lock down properly, which could result in damage to the airplane structure, and consequent reduced controllability of the airplane upon landing, accomplish the following:

#### Restatement of Requirements of AD 98-13-34, Amendment 39-10625

##### Functional Test

(a) Within 50 flight hours after July 9, 1998 (the effective date of AD 98-13-34, amendment 39-10625), perform an emergency extension (free-fall) functional test of the NLG, to ensure that the mechanism extends and locks down properly, in accordance with EMBRAER Alert Service Bulletin 145-32-A029, dated April 15, 1998. Repeat the functional test and lubrication procedures thereafter at intervals not to exceed every "A" check, but no later than 400 flight cycles.

**Note 2:** The alert service bulletin references EMBRAER Aircraft Maintenance Manual (AMM), Chapter 32-34-00, as an additional source of service information for accomplishment of the emergency extension functional test.

(1) If the extension time of the landing gear is within 30 seconds, prior to further flight, lubricate all NLG hinge points in accordance with Figure 1 of the Accomplishment Instructions of the alert service bulletin.

(2) If the extension time of the landing gear exceeds 30 seconds, prior to further flight, accomplish the requirements of paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Lubricate all NLG hinge points in accordance with Figure 1 of the Accomplishment Instructions of the alert service bulletin. And

(ii) Perform a normal system functional test of the NLG for five cycles, and repeat the emergency extension functional test specified by paragraph (a) of this AD. If the extension and locking time still exceeds 30 seconds, prior to further flight, repair in accordance with a method approved by either the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate, or the Departamento de Aviacao Civil (DAC) (or its delegated agent).

**Note 3:** The alert service bulletin references EMBRAER AMM, Chapter 32-30-00, as an additional source of service information for accomplishment of the normal system functional test.

(3) If any malfunction other than that specified in paragraph (a)(2) of this AD is detected, prior to further flight, repair in accordance with a method approved by the Manager, Atlanta ACO, or the DAC (or its delegated agent).

### New Requirements of this AD

#### Terminating Modification

(b) Within 2,000 flight hours after the effective date of this AD, accomplish paragraphs (b)(1) and (b)(2) of this AD. Accomplishment of paragraphs (b)(1) and (b)(2) of this AD constitutes terminating action for the requirements of paragraph (a) of this AD.

(1) Replace the nose landing gear door solenoid valve, part number (P/N) 2225-0100-001, with a new valve, P/N 2225-0100-003; and replace the landing gear (LG) safety pins holder, P/N 145-27571-001, with a new holder, P/N 145-37912-001; in accordance with EMBRAER Service Bulletin 145-32-0036, dated February 1, 1999.

(2) Replace the nose landing gear maneuvering actuator, P/N 1300B0000-01, with a new actuator, P/N 1300B0000-02, in accordance with EMBRAER Service Bulletin 145-32-0037, dated February 12, 1999.

#### Spares

(c) As of the effective date of this AD, no person shall install a nose landing gear door solenoid valve, P/N 2225-0100-001, a landing gear safety pins holder, P/N 145-27571-001, or a nose landing gear maneuvering actuator P/N 1300B0000-01, on any airplane.

#### Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta ACO. Operators shall submit their requests through an appropriate FAA Principal

Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

**Note 4:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

#### *Special Flight Permits*

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

**Note 5:** The subject of this AD is addressed in Brazilian airworthiness directives 98-05-01, dated May 12, 1998, and 98-05-01R1, dated July 8, 1999.

Issued in Renton, Washington, on January 25, 2000.

**Donald L. Riggin,**

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

[FR Doc. 00-2092 Filed 2-1-00; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 99-NM-330-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Boeing Model 747 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require repetitive inspections of the aft pressure bulkhead to detect cracking, and repair, if necessary. This proposal is prompted by a report of fatigue cracking found in the upper half of the aft pressure bulkhead. The actions specified by the proposed AD are intended to detect and correct cracking in the aft pressure bulkhead, which could result in rapid decompression of the fuselage or overpressurization of the tail section.

**DATES:** Comments must be received by March 20, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 99-NM-330-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1153; fax (425) 227-1181.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99-NM-330-AD." The postcard will be date stamped and returned to the commenter.

##### **Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 99-NM-330-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

#### **Discussion**

The FAA has received a report indicating that a crack was found in the upper half of the aft pressure bulkhead on a Boeing Model 747 series airplane. The crack was located at the aft/inner fastener row, which attaches the web to the "Y" ring, and was 7.5 inches long. Analysis indicates that the crack was initiated and propagated by fatigue. Such cracking, if not detected and corrected, could result in rapid decompression of the fuselage or overpressurization of the tail section.

#### **Explanation of Relevant Service Information**

The FAA has reviewed and approved Boeing Alert Service Bulletin 747-53A2425, dated October 29, 1998, which describes procedures for repetitive inspections of the aft pressure bulkhead at the "Y"-ring-to-web lap splice to detect cracking, and repair, if necessary. The inspections to detect cracking include a detailed visual inspection of the upper half of the bulkhead and a high frequency eddy current (HFEC) inspection of the upper and lower halves of the bulkhead. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

#### **Other Relevant Rulemaking**

The FAA has previously issued AD 98-20-20, Amendment 39-10786 (63 FR 50495, September 22, 1998). That AD requires repetitive inspections to detect damage and cracking of the aft pressure bulkhead on certain Boeing Model 747 series airplanes, line numbers 1 through 671 inclusive. The inspections required by that AD are similar to the ones described in this proposed AD, but this proposed AD would apply to Boeing Model 747 series airplanes having line numbers 672 and subsequent, as listed in Boeing Alert Service Bulletin 747-53A2425.

#### **Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

#### **Differences Between Alert Service Bulletin and Proposed Rule**

Operators should note that, although the alert service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions,