

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. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (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) 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 final evaluation has been prepared for this action and it 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.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 adding a new airworthiness directive to read as follows:

##### 2003-03-20 Hartzell Propeller Inc.:

Amendment 39-13045. Docket No. 2001-NE-48-AD.

**Applicability:** This airworthiness directive (AD) is applicable to Hartzell Propeller Inc. model HC-C2YR-4CF propellers with propeller hubs part number (P/N) D-6522-1 or D-2201-16 and propeller blades P/N FC8477A-4, installed on Sky International Inc. (Pitts) S-2S and S-2B airplanes with Textron Lycoming model AEIO-540-D4A5 engines.

**Note 1:** This AD applies to each propeller 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 propellers 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:** Compliance with this AD is required as indicated, unless already done.

To prevent fatigue failure of Hartzell propeller hubs P/N D-6522-1 or D-2201-16 and blades P/N FC8477A-4 which may result in loss of airplane control, do the following:

(a) Remove from service Hartzell propeller hubs P/N D-6522-1 or D-2201-16 and blades P/N FC8477A-4 before exceeding 2,000 flight hours and replace with serviceable hubs and blades.

(b) After the effective date of this AD, do not install any Hartzell propeller hubs P/N D-6522-1 or D-2201-16 and blades P/N FC8477A-4 that have accumulated 2,000 hours.

(c) A propeller hub or blade from an airplane that is identified in the applicability section of this AD may not be removed and reused on an airplane for which this AD is not applicable.

#### 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, Chicago Aircraft Certification Office (ACO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago ACO.

#### Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 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 done.

#### Effective Date

(f) This amendment becomes effective on March 11, 2003.

Issued in Burlington, Massachusetts, on January 28, 2003.

**Jay J. Pardee,**

*Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 03-2464 Filed 2-3-03; 8:45 am]

**BILLING CODE 4910-13-P**

#### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

#### 15 CFR Part 2016

#### Establishment of a Petition Process To Review Eligibility of Countries for the Benefits of the Andean Trade Preference Act, as Amended by the Andean Trade Promotion and Drug Eradication Act

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This rule, on an interim final and emergency basis, provides for the establishment of a petition process to review the eligibility of countries for the benefits of the Andean Trade Preference Act, as amended by the Andean Trade Promotion and Drug Eradication Act.

**ADDRESSES:** Submit written comments to Bennett M. Harman, Office of the Americas, Office of the United States Trade Representative, 600 17th Street, NW., Room 523, Washington DC 20508.

**DATES:** Interim rule effective February 4, 2003. Comments must be received on or before April 7, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Bennett M. Harman, Office of the Americas, Office of the United States Trade Representative. The telephone number is (202) 395-5190.

**SUPPLEMENTARY INFORMATION:** Signed into law on August 6, 2002, the Trade Act of 2002 (Pub. L. 107-210) contains, in title XXXI, provisions for enhanced trade benefits for eligible Andean countries. Titled the "Andean Trade Promotion and Drug Eradication Act" (ATPDEA), title XXXI renews and amends the Andean Trade Preference Act (ATPA) (19 U.S.C. 3201, *et seq.*). Section 3103(d) of the ATPDEA requires the President to promulgate regulations regarding the review of eligibility of countries for benefits of the ATPA, consistent with section 203(e) of the ATPA, amended by the ATPDEA, not later than 180 days after the date of enactment of the Trade Act of 2002. This authority was delegated to the U.S. Trade Representative (USTR) pursuant to Executive Order 13277 on November 19, 2002.

Section 203(e) of the ATPA, as amended, gives the President the authority to withdraw or suspend the designation of any ATPA or ATPDEA beneficiary country, or withdraw, suspend, or limit the application of preferential treatment under the ATPA, as amended by the ATPDEA, to any article of any such country, if the President determines that, as a result of

changed circumstances, the country is not meeting the respective eligibility criteria of the ATPA and ATPDEA. Section 203(e) also establishes certain procedural guidelines for taking any of the actions described above. Presidential Proclamation 7616 of October 31, 2002, delegated to the USTR the functions of the President under section 203(e)(2)(A) of the ATPA with respect to publishing notice of an action he proposes to take under section 203(e).

In accordance with section 3103(d)(2) of the ATPDEA, the interim rule is similar to the regulations governing the annual review used to modify the U.S. Generalized System of Preferences, which is authorized by title V of the Trade Act of 1974 (19 U.S.C. 2461, *et seq.*), as amended. The interim rule establishes an annual review that allows for public input, and includes procedures for requesting the withdrawal, suspension, or limitation of preferential duty treatment under the ATPA, as amended, and for reviewing such requests and implementing granted requests.

#### Emergency Action

This rulemaking is necessary on an emergency basis to meet the statutory deadline. Under these circumstances, USTR has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

#### Comments

Before adopting this interim regulation as a final rule, consideration will be given to any written comments that are timely submitted to USTR. Each person submitting a comment should include his or her name and address, and give reasons for any recommendation. After the comment period closes, USTR will publish in the **Federal Register** a final rule on this subject, together with a discussion of comments received and any amendments made to the interim rule as a result of the comments.

In order to facilitate prompt consideration of submissions, USTR strongly urges and prefers electronic e-mail submissions in response to this notice. The e-mail address is [FR0065@ustr.gov](mailto:FR0065@ustr.gov). It is strongly recommended that comments submitted by mail or express delivery service to the address for Mr. Harman listed above also be sent by e-mail. Persons making submissions by e-mail should use the following subject line: "ATPA Petition

Process." Documents should be submitted as either WordPerfect, MSWord, or text (.TXT) files. Supporting documentation submitted as spreadsheets are acceptable as Quattro Pro or Excel. For any document containing business confidential information submitted electronically, the file name of the business confidential versions should begin with the characters "BC-", and the file name of the public version should begin with the characters "P-". The "P-" or "BC-" should be followed by the name of the submitter. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files. Persons submitting written comments by mail or express delivery service should provide 20 copies. All submissions should be in English.

Written comments will be placed in a file open to public inspection pursuant to 15 CFR 2003.5, except confidential business information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential business information submitted in accordance with 15 CFR 2003.6 must be clearly marked "BUSINESS CONFIDENTIAL" at the top of each page, including any cover letter or cover page, and must be accompanied by a nonconfidential summary of the confidential information. All public documents and nonconfidential summaries shall be available for public inspection in the USTR Reading Room. The USTR Reading Room is open to the public, by appointment only, from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday. An appointment to review the file may be made by calling (202) 395-6186.

#### The Regulatory Flexibility Act and Executive Order 12866

Under the Regulatory Flexibility Act, a Regulatory Flexibility Analysis is not required under sections 603 or 604 because USTR is not publishing a Notice of Proposed Rulemaking. This interim rule is significant under Executive Order 12866 of September 30, 1993, and has been reviewed by the Office of Management and Budget.

#### List of Subjects in 15 CFR Part 2016

Administrative practice and procedure, Confidential business information, Foreign trade.

For the reasons set out in the "Supplementary Information" section of this notice, 15 CFR is amended by adding the following new part 2016 to read as follows:

#### PART 2016—ESTABLISHMENT OF A PETITION PROCESS TO REVIEW ELIGIBILITY OF COUNTRIES FOR THE BENEFITS OF THE ANDEAN TRADE PREFERENCE ACT (ATPA), AS AMENDED BY THE ANDEAN TRADE PROMOTION AND DRUG ERADICATION ACT (ATPDEA)

Sec.

2016.0 Requests for reviews.

2016.1 Action following receipt of petitions.

2016.2 Timetable for reviews.

2016.3 Publication regarding requests.

2016.4 Information open to public inspection.

2016.5 Information exempt from public inspection.

**Authority:** 19 U.S.C. 3201, *et seq.*; Sec. 3103(d), Pub. L. 107-210, 116 Stat. 933 E.O. 13277, 67 FR 70303.

#### § 2016.0 Requests for reviews.

(a) Any person may submit a request (hereinafter "petition") that the designation of a country as an Andean Trade Preference Act (ATPA) beneficiary country be withdrawn or suspended, or the application of preferential treatment under the ATPA to any article of any ATPA beneficiary country be withdrawn, suspended, or limited. Such petitions must specify the name of the person or the group requesting the review. The Office of the United States Trade Representative (USTR) suggests that, in addition, such petitions identify the ATPA beneficiary country that would be subject to the review; if the petition is requesting that the preferential treatment of an article or articles be withdrawn, suspended, or limited, identify such article or articles with particularity and explain why such article or articles were selected; indicate the specific section 203(e) or (d) (19 U.S.C. 3202(c), (d)) eligibility criterion or criteria that the petitioner believes warrants review; and include all available supporting information. The Andean Subcommittee of the Trade Policy Staff Committee (TPSC) may also request other information. If the subject matter of the petition was reviewed pursuant to a previous petition, the Andean Subcommittee would be interested in any new information related to the issue provided by the petitioner.

(b) Any party may submit a petition that the designation of a country as an Andean Trade Promotion and Drug Eradication Act (ATPDEA) beneficiary

country be withdrawn or suspended, or the application of preferential treatment to any article of any ATPDEA beneficiary country under section 204(b)(1), (3), or (4) (19 U.S.C. 3202(b)(1), (3) or (4)) be withdrawn, suspended, or limited. Such petitions must specify the name of the person or the group requesting the review. USTR suggests that, in addition, such petitions: Identify the ATPDEA beneficiary country that would be subject to the review; if the petition is requesting that the preferential treatment of an article or articles be withdrawn, suspended, or limited, identify such article or articles with particularity and explain why such article or articles were selected; indicate the specific section 204(b)(6)(B) (19 U.S.C. 3203(b)(6)(B)) eligibility criterion or criteria that the petitioner believes warrants review; and include all available supporting information. The Andean Subcommittee may also request other information. If the subject matter of the petition was reviewed pursuant to a previous petition, the Andean Subcommittee would be interested in any new information related to the issue provided by the petitioner.

(c) All petitions and other submissions should be submitted in accordance with the schedule (*see* § 2016.2) and requirements for submission that will be published annually in the **Federal Register** in advance of each review. Foreign governments may make submissions in the form of diplomatic correspondence and should observe the deadlines for each annual review published in the **Federal Register**.

(d) The TPSC may at any time, on its own motion, initiate a review to determine whether the designation of a country as an ATPA beneficiary country should be withdrawn or suspended; the application of preferential treatment under the ATPA to any article of any ATPA beneficiary country should be withdrawn, suspended, or limited; the designation of a country as an ATPDEA beneficiary country should be withdrawn or suspended; or the application of preferential treatment to any article of any ATPDEA beneficiary country under section 204(b)(1), (3), or (4) (19 U.S.C. 3202(b)(1), (3), or (4)) should be withdrawn, suspended, or limited.

(e) Petitions requesting the actions described in paragraph (a) or (b) of this section that indicate the existence of exceptional circumstances warranting an immediate review may be considered outside of the schedule for the annual review announced in the **Federal Register**. Requests for such urgent

consideration should contain a statement of reasons indicating why an expedited review is warranted.

#### **§ 2016.1 Action following receipt of petitions.**

(a) USTR shall publish in the **Federal Register** a list of petitions filed in response to the announcement of the annual review, including the subject matter of the request and, where appropriate, the description of the article or articles covered by the request.

(b) Thereafter, the Andean Subcommittee shall conduct a preliminary review of the petitions, and shall submit the results of its preliminary review to the TPSC. The TPSC shall review the work of the Andean Subcommittee and shall conduct further review as necessary. The TPSC shall prepare recommendations for the USTR on any proposed action to modify the ATPA. The Chairman of the TPSC shall report the results of the TPSC's review to the USTR, who may convene the Trade Policy Review Group (TPRG), or refer the matter to the National Security Council (NSC) committee process for further review of recommendations and decisions as necessary.

(c) The USTR, after receiving the advice of the TPSC, TPRG or the NSC committee process, shall announce in the **Federal Register** notice of the results of the preliminary review, together with proposed action or actions and a schedule for receiving public input consistent with section 203(e) of the ATPA, as amended (19 U.S.C. 3202(e)).

(1) The schedule shall include the deadline and guidelines for any party to submit written comments supporting, opposing or otherwise commencing on any proposed action.

(2) The schedule shall also include the time and place of the public hearing, as well as the deadline and guidelines for submitting requests to present oral testimony.

(d) After receiving and considering public input, the Andean Subcommittee shall submit the results of the final review to the TPSC. The TPSC shall review the work of the Andean Subcommittee and shall conduct further review as necessary. The TPSC shall prepare recommendations for the President on any proposed action to modify the ATPA. The Chairman of the TPSC shall report the results of the TPSC's review to the USTR, who may convene the TPRG, or refer the matter to the NSC committee process for further review of recommendations and decisions as necessary. The USTR, after receiving the advice of the TPSC, TPRG or the NSC committee process, shall

make recommendations to the President on any proposed action to modify the ATPA, including recommendations that no action be taken. The USTR shall also forward to the President any documentation necessary to implement the recommended proposed action or actions to modify the ATPA.

(e) In considering whether to recommend any proposed action to modify the ATPA, the Andean Subcommittee, on behalf of the TPSC, TPRG, or the NSC committee process, shall review all relevant information submitted in connection with a petition or otherwise available.

#### **§ 2016.2 Timetable for reviews.**

Beginning in calendar year 2003, reviews of pending petitions shall be conducted at least once each year, according to the following schedule, unless otherwise specified by **Federal Register** notice:

(a) September 15: Deadline for submission of petitions for review;

(b) On or about December 1: **Federal Register** announcement of the results of the preliminary review;

(c) December/January: Written comments submitted and a public hearing held on any proposed actions;

(d) February/March: Preparation of recommendations to the President, Presidential decision, and implementation of Presidential decision.

#### **§ 2016.3 Publication regarding requests.**

Following the Presidential decision and, where required, the publication of a Presidential proclamation modifying the ATPA in the **Federal Register**, USTR will publish a summary of the decisions made in the **Federal Register**, including:

(a) For petitions upon which decisions were made, a description of the outcome of the review; and

(b) A list of petitions upon which no decision was made, and thus which are pending further review.

#### **§ 2016.4 Information open to public inspection.**

With the exception of information subject to § 2016.5, any person may, upon request, inspect in the USTR Reading Room:

(a) Any written petition, comments, or similar submission of information made pursuant to this part; and

(b) Any stenographic record of any public hearings held pursuant to this part.

#### **§ 2016.5 Information exempt from public inspection.**

(a) Information submitted in confidence shall be exempt from public inspection if it is determined that the

disclosure of such information is not required by law.

(b) A party requesting an exemption from public inspection for information submitted in writing shall clearly mark each page "BUSINESS CONFIDENTIAL" at the top, and shall submit a non-confidential summary of the confidential information. Such person shall also provide a written explanation of why the material should be so protected.

(c) A request for exemption of any particular information may be denied if it is determined that such information is not entitled to exemption under law. In the event of such a denial, the information will be returned to the person who submitted it, with a statement of the reasons for the denial.

**Bennett M. Harman,**

*Acting Assistant United States Trade Representative for the Americas.*

[FR Doc. 03-2705 Filed 2-3-03; 8:45 am]

**BILLING CODE 3190-01-M**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Parts 1, 30, and 190

**RIN 3038-AB31**

### Denomination of Customer Funds and Location of Depositories

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission" or "CFTC") is adopting a new Rule 1.49 that permits futures commission merchants and derivatives clearing organizations, under certain conditions, to deposit customer funds in foreign depositories and in certain currencies other than United States dollars. The Commission is also adopting an amendment to Appendix B of its bankruptcy rules that governs the distribution of property where the bankrupt futures commission merchant or derivatives clearing organization maintains customer property in depositories outside the United States or in a foreign currency. This new distributional framework is intended to assure that customers whose funds are held in a United States depository will not be adversely affected by a shortfall in the pool of funds held in a depository outside the United States that is due to the sovereign action of a foreign government or court. The rule replaces Financial and Segregation Interpretation No. 12.

**EFFECTIVE DATE:** March 6, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Lawrence B. Patent, Deputy Director, Compliance and Registration Section, or Michael A. Piracci, Attorney-Advisor, Division of Clearing and Intermediary Oversight, and for further information regarding amendments to appendix B of part 190, contact Robert B. Wasserman, Associate Director, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5430.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

One of the most important functions of the Commodity Exchange Act (the "Act")<sup>1</sup> and the rules thereunder is the protection of customer funds. Section 4d(a)(2) of the Act requires that every futures commission merchant ("FCM"):

Treat and deal with all money, securities, and property received by such person to margin, guarantee, or secure the trades or contracts of any customer of such person, or accruing to such customer as the result of such trades or contracts, as belonging to such customer. Such money, securities, and property shall be separately accounted for and shall not be commingled with the funds of such commission merchant or be used to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer or person other than the one for whom the same are held.

Prior to 1988, the Commission, and its predecessor agency, the Commodity Exchange Authority, had construed this provision to require that customer funds deposited with an FCM relating to trading on a domestic exchange be held in the United States ("U.S."), unless the funds were being held for a foreign-domiciled customer.<sup>2</sup> In light of the growing internationalization of the futures and options markets, the Commission in 1988 issued Financial and Segregation Interpretation No. 12 ("Interp. 12"),<sup>3</sup> which provided that, under certain conditions, an FCM may deposit segregated funds of customers

domiciled in the U.S. in foreign depositories.

As stated above, when the Commission issued Interp. 12, it noted that the change in the Commission's interpretation concerning appropriate depositories for segregated customer funds was appropriate "in light of the growing internationalization of the futures and option markets."<sup>4</sup> In the more than 14 years since Interp. 12 was issued, the futures and options markets, along with almost all other segments of the business world, have seen greater internationalization. As a result, there is an increased need and desire of certain customers to be able to more easily conduct business in currencies other than the U.S. dollar.

In the Commodity Futures Modernization Act of 2000 (the "CFMA"),<sup>5</sup> Congress noted that "regulatory impediments to the operation of global interests can compromise the competitiveness of [U.S.] business" and that regulatory policy should be "flexible to account for rapidly changing derivatives industry practices."<sup>6</sup> Due to restrictions placed on holding segregated funds offshore, U.S. markets and futures professionals may find themselves at a disadvantage to their foreign competitors. One of the purposes of the CFMA is to "enhance the competitive position of [U.S.] financial institutions and financial markets."<sup>7</sup>

Based upon the foregoing, on August 7, 2002, the Commission proposed the rule being adopted herein.<sup>8</sup> The Commission received two comment letters on the proposed rule. The commenters were the National Futures Association ("NFA"), a registered futures association, and the Futures Industry Association ("FIA"), an industry trade association. Both commenters stated that they supported the proposed rule and amendments, but each suggested certain changes and clarifications that they believed would be appropriate. These suggestions, along with the Commission's assessment of these suggestions, are discussed more fully in conjunction with the discussion of the appropriate section of the rule and amendments.

<sup>1</sup> 7 U.S.C. 1 *et seq.* (2000).

<sup>2</sup> See Commodity Exchange Authority Administrative Determination No. 238 (Sep. 4, 1974); see also Foreign Options and Foreign Futures Transactions, 51 FR 12104, note 36 (Apr. 8, 1986); Leverage Transactions, [1982-1984 Transfer Binder] Comm. Fut. L. Rep. ¶ 21,742 at p. 26,952, note 52 (May 25, 1983).

<sup>3</sup> Financial and Segregation Interpretation No. 12—Deposit of Customer Funds in Foreign Depositories, 53 FR 46911 (Nov. 21, 1988). The document was published in the **Federal Register** as a Statement of Agency Interpretation. It was also published in the Commodity Futures Law Reporter at ¶ 7122 together with a series of Financial and Segregation Interpretations issued by the Commission's Division of Trading and Markets.

<sup>4</sup> *Id.* at 46912.

<sup>5</sup> Appendix E of Pub. L. 106-554, 114 Stat. 2763 (2000).

<sup>6</sup> Section 126(a) of the CFMA.

<sup>7</sup> Section 2(8) of the CFMA.

<sup>8</sup> 67 FR 52641 (Aug. 13, 2002).