

editorial corrections, and other minor changes to cask design information and drawings. In addition, the amendment includes two minor changes to HI-STAR 100 listing in the regulations. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become final on the date noted above. The NRC did not receive any comments on the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 3rd day of January, 2001.

For the Nuclear Regulatory Commission.

Michael Lesar,

*Acting Chief, Rules and Directives Branch,
Division of Administrative Services, Office
of Administration.*

[FR Doc. 01-599 Filed 1-8-01; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99-NM-329-AD; Amendment 39-11915; AD 2000-20-04]

RIN 2120-AA64

Airworthiness Directives; McDonnell Douglas Model MD-90-30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in airworthiness directive (AD) 2000-20-04 that was published in the **Federal Register** on October 6, 2000 (65 FR 59707). The typographical error resulted in the omission of the amendment number. This AD is applicable to certain McDonnell Douglas Model MD-90-30 series airplanes. This AD requires replacement of certain ground block screws with new screws; and retermination of the circuit ground wires of the electrical power control unit (EPCU) to separate grounding points.

EFFECTIVE DATE: Effective November 13, 2000.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5341; fax (562) 627-5210.

SUPPLEMENTARY INFORMATION:

Airworthiness Directive (AD) 2000-20-

04, amendment 39-11915, applicable to certain McDonnell Douglas Model MD-90-30 series airplanes, was published in the **Federal Register** on October 6, 2000 (65 FR 59707). That AD requires replacement of certain ground block screws with new screws; and retermination of the circuit ground wires of the electrical power control unit (EPCU) to separate grounding points.

PART 39—[CORRECTED]

As published, the amendment contained a typographical error in paragraph 2. under the “PART 39—AIRWORTHINESS DIRECTIVES” heading resulting in the omission of the new amendment number. In all other respects, the original document is correct.

Since no other part of the regulatory information has been changed, the final rule is not being republished.

The effective date of this AD remains November 13, 2000.

§ 39.13 [Corrected]

On page 59708, in the first column, correct instruction 2 to read as follows:

2. Section 39.13 is amended by removing amendment 39-11855 (65 FR 49728, August 15, 2000), and by adding a new airworthiness directive (AD), amendment 39-11915, to read as follows:

Issued in Renton, Washington, on December 29, 2000.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-340 Filed 1-8-01; 8:45 am]

BILLING CODE 4910-13-U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Delegation of Authority to Disclose and Request Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is amending Rule 140.73, which delegates authority to members of the Commission’s staff to provide information to other government agencies, to conform the rule with the provisions of the Commodity Exchange Act (Act) that authorize such information sharing. The Commission is also making certain technical

corrections to Rules 140.72 and 140.73 to clarify its delegations of authority.

EFFECTIVE DATE: January 9, 2001.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, Ky Tran-Trong, Attorney-Advisor, or Julie R. Windhorn, Law Clerk, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418-5450.

Supplementary Information:

I. Background

Commission Rule 140.73 delegates the authority of the Commission to provide information to other government agencies to specified members of the Commission’s staff. The Commission is authorized to promulgate this rule under Sections 2(a)(11), 8a(5) and 8(e) of the Act.¹ The Commission’s original delegation was granted to the Director of the Division of Enforcement (and, in his absence, to each Deputy Director of the Division) in order to “eliminate the necessity of the Commission itself authorizing the release of information” in each instance where other federal agencies requested information.²

II. Discussion

A. 17 CFR 140.73(a)(1)

As originally adopted, Rule 140.73 limited the information that could be disclosed by authorized Commission staff to another federal agency to that which was “within the scope of [the requesting agency’s] jurisdiction in the investigation or prosecution of any violation of federal law.”³ In 1983, after the Futures Trading Act of 1982 (1982 Act) made various amendments to Section 8(e) of the Act, the Commission revised Rule 140.73 to add State and foreign authorities to the list of agencies to which information could be released.⁴ The 1983 expansion of the Commission’s information-sharing

¹ Section 2(a)(11), 7 U.S.C. 4a(j), authorizes the Commission to “promulgate such rules and regulations as it deems necessary to govern the operating procedures and conduct of the business of the Commission.” Section 8a(5), 7 U.S.C. 12a(5), gives the Commission the authority to “promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of [the] Act.” Section 8(e), 7 U.S.C. 12(e), is the provision that permits the agency to release information.

² 44 FR 72107 (Dec. 13, 1979).

³ *Id.*

⁴ 48 FR 22133 (May 17, 1983). The Commission also authorized several additional members of the Commission’s staff to disclose information. *Id.* The delegation of authority was further expanded in 1996, and more recently in October 2000. *See* 61 FR 1708 (Jan. 23, 1996); 65 FR 64136 (Oct. 26, 2000).

authority to include disclosure to State and foreign authorities was not limited to matters within the scope of the requesting agency's jurisdiction involving "the investigation or prosecution of any violation of law." However, the Commission at that time did not make a conforming change to Rule 140.73(a)(1) to remove the restriction in connection with requests for information from other federal authorities.

The retention of the "violation of law" requirement in Rule 140.73(a)(1) leads to an incongruous result that is inconsistent with the language of section 8(e) of the Act. Section 8(e), with respect to the disclosure of information to federal agencies, provides in relevant part that:

Upon the request of any department or agency of the Government of the United States, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of [the] Act.

The 1982 Act amended Section 8(e) to permit similar information-sharing arrangements between the Commission and State and foreign authorities where the State or foreign agency or department made a request while "acting within the scope of its jurisdiction."⁵ In its subsequent revision of Rule 140.73, the Commission added paragraphs (a)(2) and (a)(3) "to conform the Commission's rules to the Commodity Exchange Act, as amended by the Futures Trading Act of 1982."⁶ As adopted, those provisions authorize certain Commission designees, "to furnish information in the possession of the Commission obtained in connection with the administration of the Act, upon written request" to any department or agency of any state or foreign government, or any political subdivision thereof, "acting within the scope of its jurisdiction."⁷ However, although the relevant portions of section 8(e) of the Act addressing the conditions under which information could be shared with either Federal or State and foreign

⁵ In relevant part, Section 8(e) of the Act provides with respect to disclosure of information to State and foreign authorities.

Upon the request of any department or agency of any State or any political subdivision thereof, acting within the scope of its jurisdiction, any foreign futures authority, or any department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, the Commission may furnish to such foreign futures authority, department or agency and information in the possession of the Commission obtained in connection with the administration of [the] Act.

⁶ 48 FR at 22133.

⁷ 17 CFR 140.73(a)(2), (3).

agencies were identical, the Commission did not revise Rule 140.73(a)(1) to eliminate that provision's requirement that Commission staff only disclose information to other federal authorities acting within the scope of their jurisdiction "in the investigation or prosecution of any violation of law." Consequently, under Rule 140.73 as currently written, Commission staff are authorized to disclose information obtained in connection with the Commission's administration of the Act to other Federal agencies under more limited circumstances than is permitted in response to similar requests for information from State or foreign agencies. This result is not supported by the statutory language of section 8(e) of the Act⁸ and, accordingly, the Commission finds it appropriate to remove the "violation of law" limitation from Rule 140.73(a)(1).

The Commission also believes that it is necessary to revise Rule 140.73(a)(1) at this time in order to facilitate the Commission's ability to provide financial reports submitted by, and reports of examinations of, CFTC-regulated entities to the Board of Governors of the Federal Reserve System (FRB) pursuant to Section 111 of the Gramm-Leach-Bliley Act of 1999 (GLB Act).⁹ Under the GLB Act, the FRB has supervisory oversight authority and responsibility for financial holding companies (FHCs).¹⁰ Such FHCs may own a variety of financial companies that are "functionally regulated" by different regulatory agencies, e.g., a national bank regulated by the Office of the Comptroller of the Currency (OCC), a broker-dealer or investment advisor regulated by the Securities and Exchange Commission (SEC), or a futures commission merchant regulated by the Commission. Although the GLB Act establishes the FRB as the "umbrella supervisor" of an FHC, Section 111 directs the FRB, in discharging its responsibilities as umbrella supervisor, to rely "to the

⁸ Section 8(e) of the Act does state, however, that "any information furnished under this subsection to any Federal department or agency shall not be disclosed by such department or agency except in any action or proceeding under the laws of the United States to which it, the Commission, or the United States is a party." This limitation exists for both State and foreign authorities as well, and is incorporated into paragraph (c) of Rule 140.73.

⁹ Pub. L. No. 106-102, 113 Stat. 1338 (1999) (codified in scattered sections of 12 U.S.C. and 15 U.S.C.).

¹⁰ FHCs are qualifying bank holding companies (BHCs) that engage in a diversified range of financial activities. To qualify as an FHC, a BHC must be well-capitalized, well-managed and have a Community Reinvestment Act rating of "satisfactory" or better. See GLB Act § 103, codified at 12 U.S.C. 1843(k).

fullest extent possible" on financial reports filed with, or prepared by, the FHC's or nonbank subsidiary's functional regulator, as well as on publicly available information for both regulated and non-regulated subsidiaries.¹¹ In addition, the GLB Act also requires the FRB to rely "to the fullest extent possible" on examinations of the FHC or nonbank subsidiary carried out by the appropriate functional regulator.¹² Accordingly, as the functional regulator of an FHC or nonbank subsidiary thereof engaging in CFTC-regulated activities, the Commission would be expected to provide financial reports submitted by, and reports of examinations of, those firms upon the FRB's request to enable the FRB to carry out its oversight and supervisory responsibilities. Absent a revision of Rule 140.73(a)(1), however, Commission staff arguably would be prohibited from sharing such information with the FRB unless the report or examination was required in connection with "the investigation or prosecution of any violation of law." This could inhibit the FRB's role as the FHC's umbrella regulator and is inconsistent with Congressional intent. Therefore, the Commission has determined to revise Rule 140.73(a)(1) to delete the "violation of law" requirement from the rule.

B. 17 CFR 140.72(a) and 17 CFR 140.73(a)

As noted above, Commission Rule 140.73 delegates authority to certain specified members of the Commission's staff to share information obtained in connection with the administration of the Act with other government agencies upon written request. Similarly, Commission Rule 140.72 delegates authority to certain specified members of the Commission's staff to share "any information necessary or appropriate to effectuate the purposes of the Act, including, but not limited to[,] the full facts concerning any transaction or market operation, including the names of the parties thereto" with officials of any contract market, registered futures association, or self-regulatory organization.¹³ The Commission has

¹¹ GLB Act § 111, codified at 12 U.S.C. 1844c. See also FRB Supervisory Letter SR 00-13 (Aug. 15, 2000) (Framework for Financial Holding Company Supervision), available at <http://www.federalreserve.gov>.

¹² *Id.*

¹³ Disclosure of confidential information under Rule 140.72 requires a prior determination by the Commission or its designees that "the transaction or market operation disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers, consumers, or investors or

determined to amend both rules to add the Regional Counsel of the Division of Enforcement as persons authorized in appropriate cases to disclose certain non-public information to other governmental, judicial or market authorities in carrying out his or her duties. This authority will facilitate the Commission's ability to coordinate and share information with other authorities for regulatory oversight, fitness inquiries and other regulatory purposes. In addition, because the position of Program Coordinator of the Division of Enforcement no longer exists, the Commission is also revising Rules 140.72(a) and 140.73(a) to remove the delegations of authority provided therein to the Program Coordinator of the Division of Enforcement.

III. Related Matters

The Commission has determined that these amendments relate solely to agency organization, procedure and practice. Therefore, the provisions of the Administrative Procedure Act, which generally require notice of proposed rulemaking and provide other opportunities for public participation,¹⁴ are not applicable. The Commission further finds that, because the rules have no adverse effect upon a member of the public, and these changes are being made solely for the purpose of conforming the language of the regulation to the language of the statute, there is good cause to make them effective immediately upon publication in the **Federal Register**.

List of Subjects in 17 CFR Part 140

Authority delegations, organization, functions and procedures of the Commission.

In consideration of the foregoing and pursuant to the authority contained in the Act and, in particular, Sections 2(a), 8 and 8a, 7 U.S.C. 4a, 12 and 12a, the Commission hereby amends Part 140 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

that disclosure is necessary or appropriate to effectuate the purposes of the Act." See § 140.72(a).

¹⁴ 5 U.S.C. 553(b) generally requires notice of proposed rulemaking to be published in the **Federal Register**. That provision states, however, that except when notice or hearing is required by statute, notice is not required for:

(A) * * * interpretative rules, general statements of policy, or rules of agency organization, procedure or practice; or

(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest.

PART 140—ORGANIZATION, FUNCTIONS AND PROCEDURES OF THE COMMISSION

1. The authority citation for Part 140 continues to read as follows:

Authority: 7 U.S.C. 4a and 12a.

2. Section 140.72 is amended by revising paragraph (a) to read as follows:

§ 140.72 Delegation of authority to disclose confidential information to a contract market, registered futures association or self-regulatory organization.

(a) Pursuant to the authority granted under sections 2(a)(11), 8a(5) and 8a(6) of the Act, the Commission hereby delegates, until such time as the Commission orders otherwise, to the Executive Director, the Deputy Executive Director, the Special Assistant to the Executive Director, the Director of the Division of Trading and Markets, each Deputy Director of the Division of Trading and Markets, the Chief Accountant, the General Counsel, each Deputy General Counsel, the Director of the Division of Economic Analysis, each Deputy Director of the Division of Economic Analysis, the Director of the Market Surveillance Section, the Director of the Division of Enforcement, each Deputy Director of the Division of Enforcement, each Associate Director of the Division of Enforcement, the Chief Counsel of the Division of Enforcement, each Regional Counsel of the Division of Enforcement, each of the Regional Coordinators, each of the Directors of the Market Surveillance Branches, the Director of the Office of International Affairs, and the Deputy Director of the Office of International Affairs, the authority to disclose to an official of any contract market, registered futures association, or self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934, any information necessary or appropriate to effectuate the purposes of the Act, including, but not limited to, the full facts concerning any transaction or market operation, including the names of the parties thereto. This authority to disclose shall be based on a determination that the transaction or market operation disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers, consumers, or investors or that disclosure is necessary or appropriate to effectuate the purposes of the Act. The authority to make such a determination is also delegated by the Commission to the Commission employees identified in this section. A Commission employee delegated authority under this section may exercise that authority on his or her own

initiative or in response to a request by an official of a contract market, registered futures association or self-regulatory organization.

* * * * *

3. Section 140.73 is amended by revising paragraph (a) introductory text and paragraph (a)(1) to read as follows:

§ 140.73 Delegation of authority to disclose information to United States, States, and foreign government agencies and foreign futures authorities.

(a) Pursuant to sections 2(a)(11), 8a(5) and 8(e) of the Act, the Commission hereby delegates, until such time as the Commission orders otherwise, to the General Counsel or, in his or her absence, to each Deputy General Counsel, the Director of the Division of Enforcement, each Deputy Director of the Division of Enforcement, the Chief Counsel of the Division of Enforcement, each Associate Director of the Division of Enforcement, each Regional Counsel of the Division of Enforcement, the Director of the Division of Economic Analysis or, in his or her absence, each Deputy Director of the Division, the Director of the Market Surveillance Section, the Director of the Division of Trading and Markets or, in his or her absence, each Deputy Director of the Division of Trading and Markets, and the Director of the Office of International Affairs or, in his or her absence, the Deputy Director of the Office of International Affairs, the authority to furnish information in the possession of the Commission obtained in connection with the administration of the Act, upon written request, to:

(1) Any department or agency of the United States, including for this purpose an independent regulatory agency, acting within the scope of its jurisdiction;

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Issued in Washington, DC on January 4, 2001, by the Commission.

Catherine D. Dixon,

Assistant Secretary of the Commission.

[FR Doc. 01-595 Filed 1-8-01; 8:45 am]

BILLING CODE 6351-01-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 170

Distribution of Fiscal Year 2001 Indian Reservation Roads Funds

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Temporary rule.