COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Futures Contracts in Corn and Soybeans; Order To Designate Contract Markets and Amendment Order of November 7, 1997, as Applied to Such Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Final order to Chicago Board of Trade.

SUMMARY: The Commodity Futures Trading Commission (Commission), by letter dated December 19, 1996, commenced a proceeding under section 5a(a)(10) of the Act by issuing to the Board of Trade of the City of Chicago (CBT) a notification that the delivery specifications of its corn and soybean futures contracts no longer accomplish the statutory objectives of ''permit[ting] the delivery of any commodity * * * at such point or points and at such quality and locational price differentials as will tend to prevent or diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce.'' 61 FR 67998 (December 26, 1996). The Commission, on November 7, 1997, issued an Order under section 5a(a)(10) of the Act to change and to supplement the delivery specifications of the CBT corn and soybean futures contracts. 62 FR 60831 (November 13, 1998). By letter dated November 17, 1997, the CBT notified the Commission that it would submit for Commission review an alternative to the contract terms ordered by the Commission and thereafter submitted draft applications for contract market designation for corn and soybeans, beginning with contract months in the year 2000.

The Commission on May 7, 1998, ordered that the applications for contract market designation in corn and in soybeans submitted by the CBT on December 19, 1997, and supplemented on March 20, 1998, be granted and amended its Order of November 7, 1997, as applied to the newly approved contracts to the extent stated. Under this Order, the Commission permits the CBT: (i) to add the southern Illinois River as delivery locations for soybeans and to delete the Toledo, Ohio switching district as a delivery location for soybeans; (ii) to modify the premiums for delivery of soybeans and corn at non-par locations from a percentage of the freight tariff to a specified fixed cents per bushel schedule of premiums; (iii) to modify the contingency plan to include a conforming fixed cents-per-bushel schedule of locational adjustments; and (iv) to add a minimum net worth eligibility requirement for issuers of shipping certificates of $5 million. Nothing in the Commission's Order vacates the designation of the current corn and soybean futures contracts, vacates the applicability of the November 7, 1997 Order to those contracts, or amends the terms of the November 7, 1997 Order as applied to those contracts.

The Commission has determined that publication of this Order is in the public interest, will provide the public with notice of its action, and is consistent with the purposes of the Commodity Exchange Act.

DATES: This Order became effective on May 7, 1998.

ADDRESSES: Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Steven Manaster, Director, or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, D.C. 20581, (202) 418–5260, or electronically, Mr. Architzel at [PArchitzel@cftc.gov].

SUPPLEMENTARY INFORMATION: Section 5a(a)(10) of the Act provides that, as a condition of contract market designation, boards of trade are required to:

> permit the delivery of any commodity, on contracts of sale thereof for future delivery, of such grade or grades, at such point or points and at such quality and locational price differentials as will tend to prevent or diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce * * *.

The Commission, on November 7, 1997, issued an Order under section 5a(a)(10) of the Act to change and to supplement the delivery specifications of the CBT corn and soybean futures contracts. 62 FR 60831 (November 13, 1998). By letter dated November 17, 1997, the CBT notified the Commission that it would submit for Commission review an alternative to the contract terms ordered by the Commission and thereafter submitted draft applications for contract market designation for corn and soybeans, beginning with contract months in the year 2000. The Commission, on December 1, 1997, published in the **Federal Register** notice of the CBT's draft proposal. 62 FR 63529. Subsequently, on December 19, 1997, the CBT submitted its proposal, and on March 20, 1998, the CBT amended its proposal. The Commission on May 7, 1998, designated the CBT as contract markets in corn and soybeans and amended the November 7, 1997 Order as applied to the newly approved contracts to the extent stated. The text of the Order is set forth below.

In the Matter of the Section 5a(a)(10) Notification to the Board of Trade of the City of Chicago Dated December 19, 1996, Regarding Delivery Point Specifications of the Corn and Soybean Futures Contracts.

Dated: May 7, 1998.

The Commodity Futures Trading Commission (CFTC or Commission) hereby orders that the applications for contract market designation in corn and in soybeans submitted by the Board of Trade of the City of Chicago (CBT) on December 19, 1997 and supplemented on March 20, 1998, be granted and hereby amends its Order under section 5a(a)(10), dated November 7, 1997, to permit the applications for designation to be granted. Under this Order, the Commission takes the following actions:

(1) Grants under section 5 of the Commodity Exchange Act (Act) the CBT's application for designation as a contract market in soybeans and approves under section 5a(a)(12) of the Act all of the proposed rules of the contract market contained in Attachment 1 to this Order;

(2) Grants under section 5 of the Act the CBT's application for designation as a contract market in corn and approves under section 5a(a)(12) of the Act all of the proposed rules of the contract market contained in Attachment 2 to this Order;

(3) Amends its Order of November 7, 1997, making all changes necessary to effect the above actions, as follows:

(i) permits the CBT to add the southern Illinois River as delivery locations for soybeans and to delete the Toledo, Ohio switching district as a delivery location for soybeans;

(ii) permits the CBT to modify the premiums for delivery of soybeans and corn at non-par locations from a percentage of the freight tariff to a fixed cents per bushel schedule of premiums;

(iii) permits the CBT to modify the contingency plan in the Order of November 7, 1997, to include a conforming fixed cents-per-bushel schedule of locational adjustments; and

(iv) permits the CBT to add a minimum net worth eligibility requirement for issuers of shipping certificates of $5 million;

Nothing in this Order precludes the CBT from listing for trading the soybean and corn contracts designated under this Order for contract months prior to the January 2000 soybean futures contract month and the March 2000 corn futures contract month, the initial contract months for which the Order of November 7, 1997, became effective.

Nothing in this Order vacates the designation of the current corn and soybean futures contracts, vacates the applicability of the November 7, 1997 Order to those contracts, or amends the terms of the November 7, 1997 Order as applied to those contracts. Both or either of the currently designated contracts and the contracts designated by this Order may be traded.

Nothing in this Order mandates that Toledo, Ohio, cease operation as a delivery location in any commodity, either for futures contracts traded on the CBT, for futures contracts for which any other board of trade which might choose to seek contract market designation, or for any of Toledo's substantial cash market operations.

The Commission, as discussed below, bases these actions on its findings that available deliverable supplies of corn and soybeans under the CBT's present revisions are not so inadequate under section 5a(a)(10) as to require that the Commission mandate additional delivery points. However, the adequacy of corn and soybean supplies cannot be accurately and fully ascertained until after there is a history of deliveries occurring under the terms of the revised contracts. If in operation the revised contract terms result in inadequate deliverable supplies of corn or soybeans, the Commission will reconsider the need to require additional delivery points for the revised contracts. To that end, the Commission directs the CBT to report on the experience with deliveries and expiration performance in the revised corn and soybean futures contracts on an annual basis for a five-year period after contract expirations begin under the revised contracts.

The revised CBT proposed locational price differentials for the corn and soybean futures contracts fall within the range of commonly observed or expected commercial price differences, as required by section 5a(a)(10) of the Act and Commission policy. However, in light of the great variability in where the differential for each river segment falls within the range of commonly observed cash price differences, the Commission directs the CBT as part of the above reports on delivery and expiration performance also to report on the extent to which particular locational price differentials may discourage or encourage deliveries to be made from that location. This report should relate rates of delivery by river segment to the applicable differentials, focussing with particularity on September deliveries from all locations and on deliveries from the Peoria-Pekin and Havana-Grafton river segments year-round.

The Commission's conclusions are supported by factual analyses made by the CFTC staff and by written comments submitted to the Commission by commercial users of the corn and soybean futures contracts and by other interested persons both prior to and in response to the Commission's issuance of the Order of November 7, 1997, and in response to the Commission's request for comment in the **Federal Register** on the CBT's recent proposal. The Commission, in reaching its conclusions in this Order, considered the record before it, which includes a substantial amount of documentary evidence, a record number of written comments submitted in response to four requests for comment, and the transcriptions of statements presented by the CBT and interested members of the public during two open meetings of the Commission to consider these issues.

The Commission has reached its conclusions based upon the legal standards of the Commodity Exchange Act. Section 5a(a)(10) of the Act requires that exchanges establish such delivery points as will tend to prevent or diminish price manipulation, market congestion and the abnormal movement of commodities in interstate commerce. In carrying out the requirements of section 5a(a)(10), the Commission is not free to direct exchanges to add particular delivery locations if the Commission finds that the contract meets the statutorily-required level of deliverable supplies. Thus, the Commission's approval of the delivery locations selected by the CBT for its revised corn and soybean futures contracts is not based upon a finding that Toledo, Ohio, is in any way an inappropriate delivery point for these or any other futures contracts. To the contrary, Toledo currently is an active cash market for corn, soybeans and wheat, with over 120 million bushels of these commodities being received at that location in 1997. The available data indicate that Toledo will continue to be an active cash market center for these commodities in the future.[1] As the Commission in its Order of November 7, 1997, Toledo has proven to be an effective futures delivery point for corn and soybeans. 62 FR 60854. Accordingly, nothing precludes the CBT, it if chooses, from continuing to list for trading the soybean futures contract provided under the Order of November 7, 1997, which includes Toledo as a delivery point, or precludes any other exchange from seeking designation for a contract with Toledo as a delivery point.

The Commission's action in designating contract markets for corn and soybeans under the terms which the CBT has recently proposed does not vacate or negate the existing designated contracts which are the subject of the Order of November 7, 1997. That Order remains in effect as to the current contracts and, as modified herein, applies to the revised contracts. Until the designation for such contracts are vacated, the CBT may trade both the current and the revised contracts simultaneously, if it so chooses.[2] Moreover, the CBT may begin trading the revised contracts for contract months with expirations prior to year 2000.

I. The Section 5a(a)(10) Proceeding

The Commission, by letter dated December 19, 1996, commenced a proceeding under section 5a(a)(10) of the Act by issuing to the CBT a notification that the delivery specifications of its corn and soybean futures contracts no longer accomplish the statutory objectives of ''permit[ting] the delivery of any commodity * * * at such points or point and at such quality and locational price differentials as will tend to prevent or diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce.'' Letter of December 19, 1996, to Patrick Arbor from the Commission, 61 FR 67998 (December 26, 1996) (section 5a(a)(10) notification). The section 5a(a)(10) notification detailed long-term trends in the storage, transportation and processing of corn and soybeans, related those trends to changes in cash market conditions at the CBT delivery locations, and analyzed the lack of consistency between the cash market for these commodities and the delivery provisions of the contracts. *Id.* at 68000–68004.

The closure of three of the six existing Chicago warehouses regular for delivery

[1] In this regard, Toledo continues to perform a vital role in futures markets due to its position as the primary delivery point for the CBT wheat futures contract. In this respect, Toledo is located within one of the few primary production areas for soft red winter wheat and has provided the bulk of the deliverable supply for that futures contract for many years.

[2] Of course, if the CBT elected simultaneously to list the current and revised futures contracts for trading and intends to list options on those futures contracts, it must submit for prior Commission approval applications for designation as a contract market in options on either the revised or current futures contracts to assure that the CBT is properly authorized to trade options on both futures contracts.

under the futures contracts during the year prior to the section 5a(a)(10) notification underscored the need to address without delay the fundamental problems with the contract's delivery specifications. However, the CBT membership defeated contract modifications recommended by its board of directors in October 1996.[3] After an additional Chicago delivery warehouse stopped accepting soybeans and corn in late October 1996, the Commission formally commenced this proceeding under section 5a(a)(10) of the Act on December 19, 1996, by finding that the CBT corn and soybean futures contracts no longer met the requirements of that section of the Act.

Subsequently, on April 16, 1997, the CBT submitted its response to the section 5a(a)(10) notification in the form of proposed exchange rule amendments (1997 proposal). Those proposed rule amendments would have replaced the existing delivery system involving delivery of warehouse receipts representing stocks of grain stored at terminal elevators in Chicago, Toledo, and St. Louis with delivery of shipping certificates.[4] Such shipping certificate would have provided for corn or soybeans to be loaded into a barge at one of the shipping stations located along a 153-mile segment of the Illinois River from Chicago (including Burns Harbor, Indiana) to Pekin, Illinois and additionally to be delivered in Chicago by rail or vessel. Delivery at all eligible locations would have been at par. The CBT's 1997 proposal would have eliminated the current delivery points on its corn and soybean futures contracts at Toledo, Ohio and St. Louis, Missouri and would have restricted firms eligible to issue shipping certificates to those meeting a minimum net worth requirement of $40 million, in addition to a number of other requirements.

The Commission previously had published the substance of the CBT's 1997 proposed amendments in the **Federal Register** for a 15-day comment period (62 FR 12156 (March 14, 1997), later extended until June 16, 1997 (62 FR 1997). The Commission received almost 700 comments, the largest number of comments ever received by the Commission on any issue before it. On June 12 1997, the Commission held a public meeting at the CBT's request to accept oral and written statements by the CBT and interested members of the public. 62 F.R. 29107 (May 29, 1997). The participants represented a cross-section of views, both favoring and opposing the CBT proposal.[5]

On September 15, 1997, the Commission issued a proposed order, publishing its text in the **Federal Register** with a request for public comment.[6] 62 FR 49474 (September 22, 1997). The comment period on the proposed order expired on October 22, 1997. Over 230 commenters submitted comments to the Commission on the proposed order.[7] In addition, the Commission held a public hearing on October 15, 1997, at which the CBT was afforded the opportunity mandated under section 5a(a)(10) of the Act to appear before the Commission and to be heard. In addition to its oral presentations, the CBT submitted written statements and documentary evidence.[8] The CBT also filed exceptions to the proposed order as provided under the Act.

On November 7, 1997, the Commission issued a final Order (Order) to the CBT under section 5a(a)(10) of the Act. 62 FR 60831 (November 13, 1997). The Commission's Order found that the CBT's 1997 proposal failed to meet the requirements of sections 5a(a)(10), 5a(a)(12), 8a(7), and 15 of the Act because of (1) an inadequate amount of deliverable supplies of soybeans; (2) the failure to include required locational differentials; (3) the failure to provide an adequate contingency plan for alternative deliveries if river transportation were obstructed; and (4) the unnecessary limitation on eligibility for issuing corn and soybean shipping certificates imposed by the CBT's proposed $40 million minimum net worth requirement.

Based on these findings, the Commission Order changed and supplemented the delivery locations for CBT's soybean futures contract by retaining the Toledo, Ohio switching district and the St. Louis/East St. Louis/Alton areas as delivery locations, with Toledo priced at par and the St. Louis/East St. Louis/Alton area priced at a premium over contract price of 150 percent of the difference between the Waterways Freight Bureau Tariff No. 7 rate applicable to that location and the rate applicable to Chicago, Illinois. The Commission also required that both corn and soybeans from shipping locations on the northern Illinois River be deliverable at a premium over contract price of 150 percent of the difference between the Waterways Freight Bureau Tariff No. 7 rate applicable to that location and the rate applicable to Chicago, Illinois, with Chicago at contract price. For both the CBT corn and soybean futures contracts, the Commission ordered that the contingency plan for alternative delivery procedures when traffic on the northern Illinois River is obstructed be changed and supplemented and that the $40 million minimum net worth eligibility requirement for issuers of shipping certificates be eliminated.

The Commission's Order explicitly permitted the CBT to seek appropriate modifications to it, stating that the Commission had not ''precluded the CBT from submitting for Commission review and approval under sections 5a(a)(10) and 5a(a)(12) of the Act any alternative proposed delivery specifications for its corn or soybean futures contracts.'' 62 FR 60833. To the contrary, the Order provided that the CBT

> will continue to be free to propose revisions of the new terms to the Commission for its consideration under sections 5a(a)(10) and 5a(a)(12) or to submit a petition to the Commission to reconsider or to amend this Order. If the CBT believes that an alternative to the new terms and to its original proposal would better serve its business interests and would also meet the statutory requirements, the CBT should submit such a proposed rule revision or petition.

Id. at 60834.

By letter dated November 17, 1997, the CBT notified the Commission that it

[3] The CBT task force spent a year developing proposed changes to the contract's specifications. Those recommendations were modified by the CBT's board of directors, and the modified proposal was then defeated by a vote of the CBT membership on October 17, 1996.

[4] A shipping certificate is a negotiable instrument that represents a commitment by the issuer to deliver (e.g., load into a barge) corn or soybeans to the certificate holder pursuant to terms specified by the CBT whenever the holder pursuant to terms specified by the CBT whenever the holder decides to surrender the certificate to the issuer.

[5] A transcript of the meeting has been entered into the Commission's comment file. Participants included a United States Senator, a United States Representative and a state government representative from the state of Ohio; a United States Representative and a state government representative from the state of Michigan; representatives of six commercial users of the contracts; representatives of three producer associations; and six persons representing the CBT.

[6] Subsequently, the Commission also published for public comment notice that it was proposing to disapprove application of the terms proposed by the CBT to the January 1999 soybean futures contract and the March 1999 corn futures contract. 62 FR 5108 (September 30, 1997). The CBT purportedly listed those futures contracts for trading after issuance of the September 15, 1997, proposed order. The comment period on that notice also ended October 22, 1997.

[7] Comments were received by the Commission offering a wide range of opinion. Many took issue with the philosophy underlying the section 5a(a)(10) statutory authority which permits the Commission to order an exchange to change or to supplement contract terms that violate that provision of the Act. Others took issue with the Commission for not proposing additional remedial changes, particularly for the corn contract.

[8] A transcript of the hearing and all attendant written statements and documents have been included in the public comment file of this proceeding.

would submit for Commission review an alternative to the contract terms ordered by the Commission and thereafter submitted draft applications for contract market designation for corn and soybeans, beginning with contract months in the year 2000. The Commission, on December 1, 1997, published in the **Federal Register** notice of the CBT's draft proposal of revised contract terms. 62 FR 63529. The Commission requested comment on five specific issues: (1) whether the deliverable supplies under the CBT draft proposal would meet the requirements of section 5a(a)(10) of the Act; (2) whether the CBT draft proposal's locational price differentials would reflect cash market practice; (3) whether the CBT draft proposal's load-out provision would conform to commercial practice; (4) whether the CBT draft proposal's reimbursement scheme under the contingency plan would reflect commercial practices; and (5) whether the CBT draft proposal's minimum net worth requirements would unduly limit eligibility of firms to become issuers of shipping certificates. 62 FR 63532.[9]

The Commission received twenty-seven comment letters in response to this notice, thirteen of which supported the CBT alternatives. Of the ten comments opposing the CBT alternative, nine questioned the CBT's proposed elimination of Toledo as a delivery point. Three commenters opposed the draft proposal's locational price differentials as not reflective of cash price differentials, and three opposed as too high the net worth requirement for issuers of shipping certificates.[10]

By submission dated March 20, 1998, the CBT amended its applications for designation and provided additional information (1998 proposal). The March 20, 1998 submission modified the draft proposal for the soybean contract by changing the segmentation of delivery zones within the delivery area as proposed, modifying the schedule of locational price differentials applicable to those zones and making the equivalent schedule of locational price adjustments applicable under the contingency delivery plan; modifying the performance requirement for deliverers in the Alton-St. Louis area; and reducing the proposed eligibility requirement for issuers of shipping certificates from a proposed requirement to register for delivery of a minimum of 30 barges to a $5 million minimum net worth requirement.

The Commission has reviewed the CBT's 1998 proposal to determine whether it meets the requirements of the Commission's Order and of the Act and regulations thereunder.[11] The CBT's 1998 proposal differs from the Commission's Order with respect to: (1) the delivery locations for the soybean contract; (2) the locational price differentials for both the soybean and corn futures contract; and (3) for both contracts, the minimum net worth eligibility requirement for issuers of shipping certificates. These differences from the provisions of the Commission's Order are analyzed below.

II. Deliverable Supply

A. The Commission's Order

In determining whether the CBT's first proposal met the requirements of section5a(a)(10) of the Act, the Commission initially assessed whether the available deliverable supplies of the commodity at the delivery points specified by the CBT for all delivery months on the contract would be sufficiently large and available to market participants so that futures deliveries, or the credible threat thereof, could assure an appropriate convergence of cash and futures prices and thereby tend to prevent or to diminish price manipulation, market congestion, and the abnormal movement of the commodity in interstate commerce. 62 FR 60838. The Commission determined the appropriate standard for measuring the adequacy of deliverable supplies under the 1997 proposal by examining the relationship between the level of deliverable stocks for corn and soybeans and the presence of a price premium for the expiring futures month over the next futures month (a price inverse).[12]

Based on an analysis of these relationships, the Commission used as a measure of an inadequate level of deliverable supplies under section 5a(a)(10) deliverable supplies below the level of 2,400 contracts for soybeans and below the level of 3,000 contracts for corn. However, the Commission also noted that a higher level of deliverable supplies historically may, in fact, be necessary to protect against price manipulation. As the Commission explained in its Order, to avoid a repetition of the July 1989 soybean futures contract expiration, when both the Commission and the CBT acted on their belief that a sizable long position posed a significant threat of manipulation, deliverable supplies of at least 4,000 contracts would be necessary. 62 FR 60839. The Commission considered both of these measures, as well as other relevant information, in its analysis of the adequacy of deliverable supply.

Applying these measures of adequacy of deliverable supply to the 1997 proposal,[13] the Commission found that the proposed delivery provisions of the soybean contract ''clearly fail to meet the statutory requirement for adequate levels of deliverable supplies throughout the summer months of July, August, and September * * *.'' 62 FR 60850. As to the CBT proposal for corn, the Commission found that ''gross deliverable supplies throughout the year appear to be adequate except for September'' [14] and that, in light of the other changes and supplements which the Commission was making to the proposal and absent actual trading experience to the contrary, it did not find that additional delivery points for corn were required.

Having found that section 5a(a)(10) of the Act required that delivery points for soybeans be added to those proposed by the CBT in order to increase available deliverable supplies, the Commission supplemented the 1997 by proposal by

[9] By letter to the CBT, dated January 9, 1998, the Commission's Division of Economic Analysis terminated fast-track review of the designation applications. In light of the outstanding Order under section 5a(a)(10), the Commission ruled that these applications are ineligible for fast-track treatment.

[10] An additional four comment letters neither favored nor opposed the specific CBT proposal, but rather addressed other issues.

[11] Section 5(6) conditions designation of a board of trade as a contract market, among other requirements, on the ''governing board * * * making effective the orders issued pursuant to the provisions of section 5a of this Act * * * .'' Accordingly, the Commission has reviewed the proposed applications for designation to determine whether they violate any specific criterion set forth in, or term of, the Order. Where they violate a provision of the Order, the Commission has determined whether amendment of the Order to remove conflicts between the two would be appropriate. In addition, the Commission has reviewed the applications for contract market designation under all of the statutory and regulatory requirements generally applicable to contract market designation.

[12] The Commission explained in the order that: The presence of such a premium is an indication of tight deliverable supplies, potentially creating a price distortion. In situations where limited supplies lead to such a price inverse, futures contracts are significantly vulnerable to price manipulation, market congestion, and the abnormal movement of the commodity in interstate commerce under the terms of section 5a(a)(10), particularly when traders hold large positions. 62 FR 60838.

[13] The Commission's Order at 60839–60850 explains in detail the methodology by which the Commission determined the potentially available gross deliverable supplies of corn and soybeans under the 1997 proposal and the necessary reductions from those gross supplies.

[14] The Commission found that deliverable supplies of corn in September may be further supplemented by new crop production and that, as a transition month, the September contract month would be somewhat less likely to be subject to manipulation than other months. 62 FR 60850.

retaining the existing contract's delivery points. With the addition of the retained delivery locations and other changes and supplements,

potentially available gross deliverable supplies of soybeans are at or above the 2,400-contract level in both July and August during each of the past 11 years and in September during all but one of the 11 years. Indeed, the gross deliverable supplies are also at or above the 4,000-contract level for 25 of the 33 months examined. 62 FR 60854.

The Commission's decision to order that delivery locations be added to the 1997 soybean proposal to increase deliverable supplies was based solely upon its finding that available deliverable supplies would not otherwise meet the levels required by section 5a(a)(10) of the Act. Moreover, the Commission's determination of how to remedy the shortfall in deliverable supplies was narrowly focused. Thus, the Commission did not consider the merits of other possible, but untried delivery locations as a means of increasing deliverable supplies. Instead, the Commission deferred to the CBT's expressed preferences for delivery locations on the contract. Accordingly, the Commission ''accept[ed] the delivery points in the proposal itself as a starting point.'' 62 FR 60854. The Commission next considered delivery points which previously had been chosen and used by the CBT. The Commission found that the existing delivery points of St. Louis and Toledo, ''having been chosen by the CBT as appropriate delivery points for its soybean contract and having been used as delivery points for the contract for a number of years * * *, are feasible, workable and acceptable.'' *Id.* Finally, the Commission noted that, ''the CBT continues to be free to indicate by proposed rule or petition that its business preference for delivery locations is otherwise, and the Commission would consider such a new proposal * * *.'' *Id.* at n. 39.

B. Adequacy of the 1998 Proposal's Delivery Points.

The 1998 proposal for the CBT's soybean futures contract would omit Toledo as a delivery point and would add the southern Illinois River from Pekin south to river's mouth at Grafton as a delivery point.[15] The CBT supports its proposal on the grounds that the delivery area ''represent[s] the major markets along the Illinois Waterway, including Burns Harbor, IN and in St. Louis, Missouri.'' (CBT December 17, 1997, submission at 16.) The CBT proposal contains a total of 46 potential shipping stations with a cumulative daily barge loading capability of 145 barges—about 1,627 contracts (8,134,000 bushels) of soybeans—located within the proposed delivery areas for the soybean futures contract. (CBT January 23, 1998, submission, Table 1.) The CBT maintains that based on the analysis used by the Commission in its Order, available deliverable supply levels under its 1998 proposal ''meet the statutory requirements and benchmarks'' of the Order for the critical summer months of July, August and September. (CBT December 17, 1997, submission at 16.)

The following chart details gross deliverable soybean supplies attributable to firms eligible to issue shipping certificates available from the 1998 proposed delivery areas for the critical contract months of July, August and September.

[15] The CBT's proposed delivery locations for corn are the same as in the Commission's Order.

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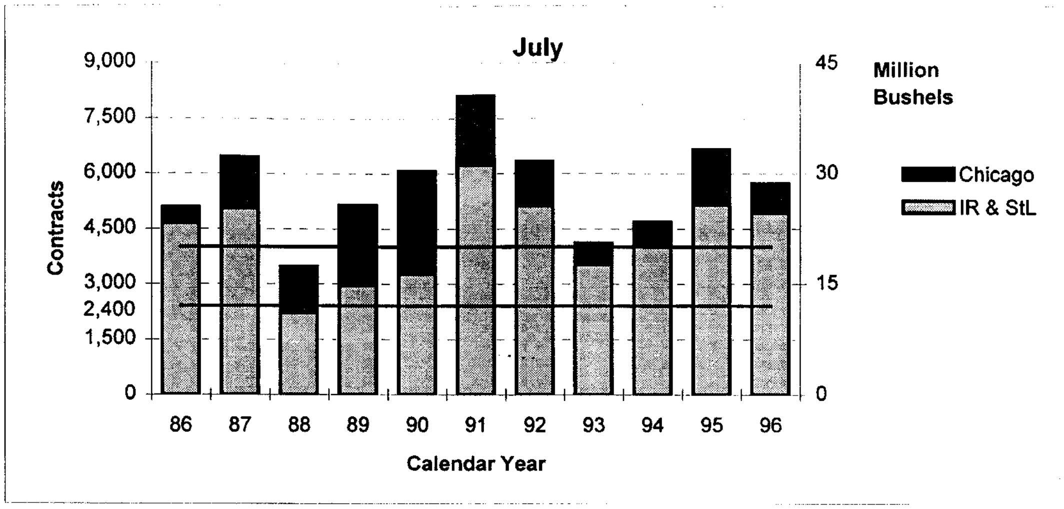
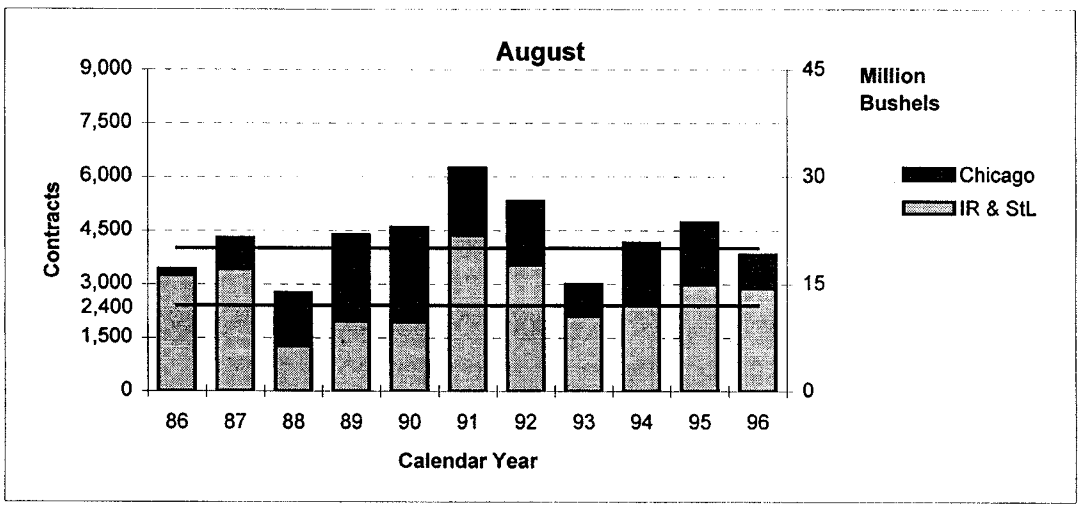
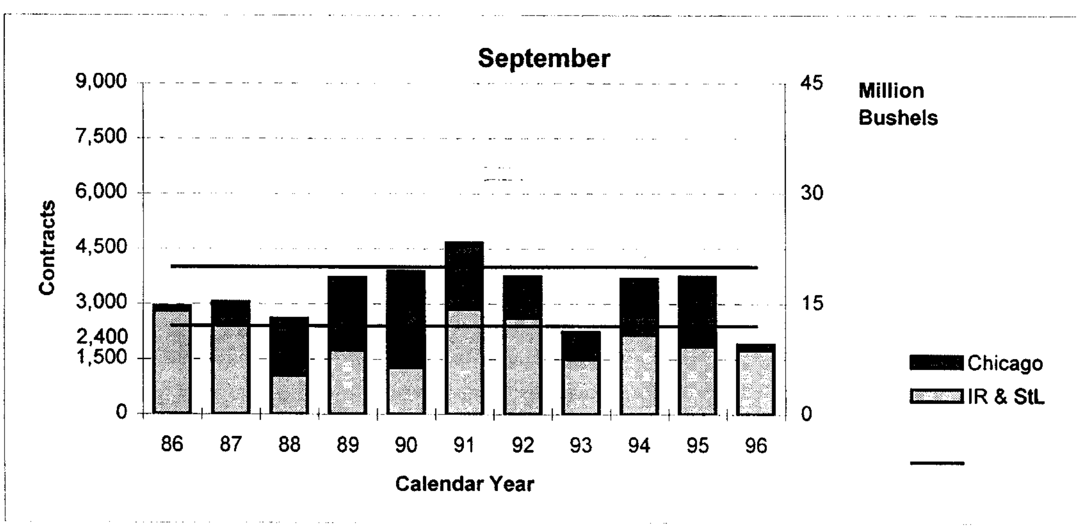
Soybeans -- Gross Deliverable Supplies for July, August and September Under the 1998 CBT Proposal, Eligible Firms







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Such estimated gross deliverable supplies for eligible firms exceeded the Commission's benchmark levels of 2,400 contracts in each of the past eleven years during July and August.[16] They reached or exceeded the 4,000 contract benchmark level in ten of eleven years during July and in seven of eleven years during August.[17]

The estimated gross deliverable soybean supplies for September meet the level of 2,400 contracts in nine of the eleven years. However, they meet the 4,00 contract level in only one of eleven years. As noted in the Order, deliverable supply concerns for September may be mitigated by the availability of new crop production in that month and the imminent harvest of even greater supplies in October. In particular, as shown in Table 1, estimated September soybean production in areas immediately adjacent to the proposed delivery area ranged from 1,636 contracts in 1996 to 14,623 contracts in 1994. These amounts are greater for soybeans than under the Commission's Order (compare 62 FR 60847) because the 1998 proposal expanded delivery locations along the Illinois River, a major production area. It reasonably can be expected that some portion of this September soybean production would potentially be deliverable on the September futures contract within normal commercial marketing channels. As a result, it is likely that the level of gross deliverable supplies available in September would be somewhat higher than the above estimates.

TABLE 1.—ESTIMATED SOYBEAN PRODUCTION LOCATED NEAR PROPOSED DELIVERY POINTS AS OF SEPTEMBER 30

[In 5,000 bushel contract units]

Crop year	Soybeans
1986	5,608
1987	10,622
1988	8,527
1989	8,606
1990	3,416
1991	12,972
1992	5,721
1993	2,263
1994	14,623
1995	7,258
1996	1,636

*The production as of September 30 of each year was estimated by multiplying U.S. Department of Agriculture harvesting progress estimates for the Illinois and Indiana crop reporting districts adjacent to the proposed delivery points by U.S.D.A. production data for counties located within about 25 miles of the proposed delivery points.

The potentially available gross deliverable supplies must be reduced, however, by the following factors identified in the Order and which remain applicable here: (1) Continuing reliance, impart, on Chicago as a source of deliverable supplies; (2) a three-business-day barge queuing and priority load-out requirement; and (3) prior commercial commitments of available supplies.[18]

a. Reliance on Chicago

To the extent that potentially available gross deliverable supplies of soybeans have reached or exceeded the 2,400 and 4,000 contract levels, they have frequently depended on Chicago supplies to do so. During July, deliverable supplies from locations other than Chicago reached or exceeded the 2,400 level in ten, and reached or exceeded the 4,000 level in six, of the eleven years analyzed. During August, deliverable supplies from locations other than Chicago reached or exceed the 2,400 contract level in seven, and the 4,000 contract level in one, of the years analyzed. For September, deliverable supplies from locations other than Chicago reached or exceeded the 2,400 contract level in four of the eleven years and never reached the 4,000 contract level during this period.

The 1998 proposal's reliance on Chicago deliverable supplies to meet the Commission's benchmark levels may result in future shortfalls. As the Commission's Order stated:

> Cash market activity in Chicago is likely to continue its historical decline. While the estimation procedure for gross deliverable supplies used in this analysis tried to correct for the precipitous decline of the cash market in Chicago by using 100 percent of the current capacity as a constraint on past supplies, that method certainly overstates the actual deliverable supplies that may originate form Chicago in the future. Chicago elevators fro many years have held stocks well below their maximum capacity levels, particularly in the critical summer months. * * * Chicago supplies will most likely be reduced significantly in the future and would not be available insignificant quantities under the CBT proposal.

62 FR 60850.

b. The Three-Day Barge Queuing and Priority Load-Out Requirements

The 1998 proposal retains the provisions of the 1997 proposal requiring a shipping certificate issuer to begin loading onto the certificate holder's barges within three business days after receiving instructions and the holder's barges are at the delivery facility ready to load. As the commenters to the 1997 proposal made clear, requiring the shipping certificate issuer to give preference to shipping certificate holders over customers and proprietary business for eight hours of load-out capacity per day is contrary to cash market practice. The Order questioned the merits of the CBT's justification of this provision, which merely assumes that issuers would be willing and able to meet this requirement and accommodate their cash business simply by extending their

[16] The gross deliverable supply estimates were derived using the same procedures as were used to calculate the estimates for the Commission's final order. Specifically, for the Illinois River and St. Louis, supplies for each contract month were estimated by summing barge shipments for that month and all subsequent months of the crop year (ending with September), with adjustments being made to exclude new crop shipments during September. For Chicago, the estimates were calculated as the sum of stocks available at the beginning of the contract month plus receipts during the month, with adjustments being made to reflect the recent sharp decline in storage capacity at Chicago. The gross deliverable supply estimates for eligible firms were further adjusted to reflect only barge shipments from the Illinois River and St. Louis by the eight firms believed to be capable of meeting the CBT's proposed $5 minimum net worth requirement.

The term ''gross deliverable supplies'' reflects the fact that these are estimates of the maximum level of deliverable supplies likely to be available for the futures contracts before any adjustment is made for other factors that are likely to reduce deliverable supplies. These factors, discussed in more detail below, include the 1998 proposal's continued reliance on Chicago as a source of deliverable supplies, the proposed three-day barge queuing and priority load-out requirements, and prior commercial commitments of available supplies. A detailed description of the estimation procedure is presented in the Commission's Order.

[17] The Commission also estimated gross deliverable supplies for all firms, including those which are not expected to be able to meet the CBT's proposed minimum net worth eligibility requirement of $5 million, These estimates reflect total shipments from the Illinois River and St. Louis, and were analyzed because it is likely that at least part of the soybeans shipped by the smaller, ineligible firms readily could be diverted to eligible delivery facilities for futures delivery purposes at economic prices and, thus, should be regarded as part of the contract's deliverable supply. The all-firms estimates have not been included in this Order because they result in levels which are only marginally greater than those for eligible-firms and exhibit essentially the same results as do the eligible-firm estimates when measured against the Commission's benchmark standards. However, in a few years particularly during the month of September, the addition of minor amounts of deliverable supplies from ineligible firms results in estimates which exceed a benchmark level which did not otherwise do so. Specifically, the all-firms estimates exceeded the 2,400 threshold when eligible firm estimates did not in September 1993 and the 4,000 threshold in September 1990, 1994 and 1995.

[18] Other factors affecting deliverable supplies identified in the Commission's Order included locational price differentials and foreseeable disruptions in barge shipping on the Illinois River. However, as discussed below, the 1998 proposal satisfactorily addresses these factors.

hours of operation. The Commission finds here, as it did in its prior Order, that:

While the effect of the proposed loading requirements on the willingness of issuers to issue shipping certificates for futures delivery is difficult to measure in advance, it represents a significant departure from cash market practice and most likely would reduce the amount of gross deliverable supplies.

62 FR 60850.

c. Prior Commercial Commitments of Stocks for Shipment

An additional factor which would reduce the above estimates of gross deliverable supplies is prior commitment of stocks for shipment. As the Order reasoned, ''determining deliverable supplies on the basis of shipment information does not make necessary deductions for that amount of the shipments which would be unavailable for futures delivery because they were otherwise committed and because no substitution was possible at an equivalent market price.'' 62 FR 60850. When such committed stocks are removed from total shipments, ''it is likely that the actual available deliverable supplies for the futures contracts would be significantly less than indicated by the above gross estimates.''

d. Conclusion

In summary, under the 1998 proposal gross deliverable supplies for soybeans during the months of July and August reach or exceed the 2,400 contract benchmark in every year, and the 4,000 contract benchmark in most years. Although the estimates for gross deliverable supplies during September failed to reach the 2,400 contract benchmark level in two of the past eleven years and failed to reach the 4,000 contract level in all years but one, those estimates may be supplemented by new crop production in September. Overall, the number of contract months for which estimated gross deliverable supplies of soybeans under the 1998 proposal would have reached or exceeded benchmark levels compares favorably with the number of contract months reaching or exceeding the benchmark levels under the Commission's Order for soybeans (and for corn). On this basis, the Commission does not find soybean deliverable supplies to be so inadequate as to require delivery points additional to, or different from, those proposed by the CBT.

However, in light of the reductions from gross deliverable supplies that may result from prior commercial commitments and the contract's three-business-day load requirement, the extent to which available deliverable supplies actually would meet or exceed the Commission's deliverable supply standards is uncertain. Equally uncertain is whether future available deliverable supplies would meet or exceed the Commission's deliverable supply standards. This will depend in part upon the degree to which Chicago remains a viable source of deliverable supplies of soybeans or upon growth in the other delivery areas sufficient to compensate for declining activity in Chicago. Because only actual trading experience will reveal whether the level of available deliverable supplies meets the requirements of section 5a(a)(10) of the Act, the Commission directs the CBT to report on the actual delivery and contract expiration experience on an annual basis for the first five years after contract expirations begin under the revised soybean contract.[19] These reports will allow the Commission to revisit the issue of adequacy of available deliverable supplies in the future if actual experience with the contract suggests that such supplies are not adequate.

III. Differentials

A. The Commission's Order

The Commission's Order found that, in light of the significant locational price differences in the cash market among the proposed delivery locations, section 5a(a)(10) required setting differentials for the delivery locations on the corn and soybean futures contracts. Specifically, the Order found that:

the cash market on the northern Illinois River clearly reflects a unidirectional flow of corn and soybeans and exhibits significant locational price differences at the proposed delivery points which have a stable relationship with one another. The failure of the CBT proposal to provide for locational price differentials reflecting the cash market not only would reduce available deliverable supplies on the contracts, but would result in price distortions and susceptibility to price manipulation, market congestion, and the abnormal movement of corn and soybeans.

62 FR 60851.

The Commission's Order found that cash market differences in the value of corn and soybeans for various delivery points on the northern Illinois River are based primarily upon the cost of barge freight to the Gulf of Mexico. Based on Commission policy requiring that locational price differentials on futures contracts be set within the range of commonly observed or expected commercial price differences, the Order found that 150 percent of the Waterways Freight Bureau Tariff No. 7 rate ''provides an appropriate basis for the differential.''[20] The percentage of tariff specified by the Order (150%) was based on analysis of barge freight rates for Illinois River shipments for the period 1990 through 1996. The Order found that 150% of tariff ''is well within the range of commonly observed freight rates and closely approximates the average percent of tariff quoted by barge companies for Illinois River shipments,'' particularly during the critical summer months. 62 FR 60856.

The Order also changes and supplemented the differential provided under a proposed contingency plan to take effect during times when river traffic is obstructed to make it consistent with the differentials in effect at other times. The Commission's Order found that obstructions of river traffic caused by adverse weather conditions or announced lock repair and maintenance were commonplace and that ''it is not an appropriate use of exchange emergency authority to address such foreseeable disruptions to the operation of contract terms.'' 62 FR 60853. Accordingly, the Commission found further that, because ''prolonged obstruction of transportation on the river would increase the susceptibility of the futures contract to manipulation by issuers,'' section 5a(a)(10) required a ''contingency plan'' rule for the proposed contract. *Id.*

The Order found that the contingency plan proposed by the CBT fell short of achieving the statutory objectives in a number of ways, including its computation of the reimbursement in transportation costs for deliveries at

[19] This is consistent with the Commission's direction to the CBT in the Order to report on the delivery experience in corn. That requirement was grounded in the Commission's finding that deliverable supplies of corn under the CBT's 1997 proposal were not so inadequate to require additional delivery points under section 5a(a)(10). Inasmuch as the 1997 and 1998 proposals for delivery points for corn are the same, that finding and the Commission's direction to file annual reports for five years has not been modified by this order.

[20] Chicago and Toledo were ordered to be valued at par.

Percent of tariff is a common means of quoting freight prices and is used extensively in cash market trading. The Waterways Freight Bureau Tariff No. 7 specifies the cost per ton of shipping commodities via barge to New Orleans from specified river segments (barge tariff zones) on the Illinois, Mississippi and Ohio Rivers. This tariff schedule was issued by the Interstate Commerce Commission in 1976 as part of its regulatory program for barge freight rates. Although this tariff schedule no longer serves a regulatory purpose, the barge industry routinely quotes barge freight rates as a percentage of the tariff schedule.

alternative locations when the contingency plan was in effect based upon 100 percent of the Waterways Freight Bureau Tariff No. 7 barge freight rate schedule. This rate would have been different from the rate found by the Commission to be appropriate at all other times. The Commission found that, ''the application of different differentials to the contracts, depending upon whether deliveries were subject to the contingency rule or to normal delivery procedures, could also contribute to price manipulation, market congestion, or the abnormal movement of commodities in interstate commerce.'' 62 FR 60852.

B. Adequacy of the 1998 Proposal's Differentials

The 1998 proposal differs from the Order in the amount of the locational price differentials specified for the corn and soybean futures contracts. The CBT proposes to substitute the following locational differentials for those ordered by the Commission:

TABLE 2.—THE PROPOSED LOCATIONAL PRICE DIFFERENTIALS FOR THE SOYBEAN AND CORN FUTURES CONTRACTS IN CENTS PER BUSHEL

Location	Soybean differential	Corn differential
Chicago	par	par.
Lockport to Seneca	+2 cents	+2 cents.
Ottawa to Chillicothe	+2.5 cents	+2.5 cents.
Peoria to Pekin	+3 cents	+3 cents.
Havana to Grafton	+3.5 cents	Not applicable.
St. Louis/East St. Louis/Alton	+6 cents	Not applicable.

In support of its proposal, the CBT states that, ''Statistics using barge freight rate differentials and F.O.B. shipping station minus F.O.B. Chicago differentials during the period from 1990–1996 show that the proposed locational differentials are also within the range of commonly observed commercial barge and price differences.'' (CBT January 23, 1998, submission at 2.)

To determine whether the CBT's proposed differentials fall within the range of commonly observed or expected commercial price differences, the Commission analyzed the frequency of opportunities for economic delivery from each delivery location at the specified differential. Deliveries from a location would most likely be made when the relative difference in the cost of barge freight between Chicago and the delivery point to New Orleans is equal to or less than the differential specified in the futures contract for that location. The Commission estimated the cost of barge freight using data on weekly offers for freight for the period of January 1990 through October 1997.

Significantly, during the critical summer months of July and August (but not September),[21] the 1998 proposed differentials for most delivery locations clearly fall at or above the mid-point of estimated cash price differences. Accordingly, the 1998 proposed differentials based on the estimated cost of freight would result in relatively frequent opportunities for economic delivery—generally exceeding 50 percent of the observations—during July and August for most locations. The opportunities for economic delivery at some locations would be less frequent, however, at times of the year other than during the summer months, but overall deliverable supplies are greater at those times. For the period January 1990 through October 1997, the relative estimated frequency with which economic delivery likely would be feasible from the majority of locations generally exceeded 30 percent.[22] Accordingly, the CBT's proposed differentials reasonably can be expected to fall within the range of commonly observed or expected commercial price differences and thus tend to prevent or diminish price manipulation, market congestion, or the abnormal movement of the commodities in interstate commerce.

However, the delivery locations of Peoria-Pekin for corn and soybeans, and Havana-Grafton for soybeans, appear to fall at the low end of the range of estimated barge freight differences. In light of the variation among river segments in the estimated frequency of opportunities for economic deliveries from the various locations, the Commission directs the CBT to report annually for a period of five years on the extent to which particular locational price differentials may discourage or encourage deliveries to be made from that location. This report should compare rates of delivery by river segment to the applicable differentials, focusing with particularlity on September deliveries from all locations and on deliveries from the Peoria-Pekin and Havana-Grafton river segments year-round. Such reporting will allow the Commission to revisit the issue of adequacy of locational differentials if actual experience with the contracts suggests that the differentials are not adequate.

C. Contingency Plan Differentials

The 1998 proposal's contingency plan differs from the Commission's Order in the method of calculating the appropriate reimbursement for the change in transportation cots for deliveries at alternative locations when the contingency plan is in effect. The Order specified that the contingency plan reimbursement be calculated by reference to the same differentials between delivery locations required under the Order to be applicable under normal (non-contingency) conditions. The 1998 proposal modifies the reimbursement calculation and changes the amount of the contingency plan differentials to conform them to the proposed cents per bushel differentials generally applicable under the 1998 proposal to the contracts. This change is

[21] This result is due to the substantial increases in barge freight rates that are commonly observed beginning in September caused by the increasing demand for shipping as the harvest season begins. The Commission considers the lower frequency with which the future contract's differentials will be at or above cash price freight differentials to be of less regulatory concern in September than at other times of the year. The seasonal movement of abundant supplies for shipment in commercial channels from all delivery locations reduces the likelihood that the proposed differentials would lead to the prohibited effects under section 5a(a)(10).

[22] As noted above, the barge industry routinely quotes freight rates as a percentage of the tariff schedule. As a consequence of this pricing convention, the relative cost of shipping among various river locations at any one time is stable. However, barge freight rates (quoted as a percent of the tariff schedule) fluctuate over time in response to increases or decreases in supply and demand for barge shipping. The proposed CBT differentials which are specified in cents-per-bushel at half-cent intervals do not translate precisely to a uniform percentage of tariff. Accordingly, as barge freight rates rise and fall in relation to the futures contracts' fixed locational differentials, the frequency with which deliveries would be made would vary somewhat from one location to another.

consistent with the Commission's Order in that the relative value of locational differentials during normal conditions is maintained during times when the contingency plan is in effect.

IV. Minimum Net Worth Requirement

A. The Commission's Order

The Commission's Order also eliminated a proposed $40 million net worth requirement for eligibility of shipping certificate issuers. Section 15 of the Act requires the Commission, when considering exchange rule proposals or amendments, to consider the public interest to be protected by the antitrust laws and to endeavor to take the lease anticompetitive means of achieving the objectives of the Act.[23] Accordingly, as the Commission stated in the Order, ''the CBT proposal's possible anticompetitive effects must be evaluated against its potential effectiveness in achieving the policies and purposes of the Act.'' 62 FR 60853.

The Order found that the $40 million minimum net worth requirement would limit issuance of shipping certificates to four of seven grain firms with shipping stations in the delivery area, result in an extremely high level of concentration, increase the Herfindahl-Hirschman Index (HHI) to 3,300 (an increase of 530 points over the current delivery system), and act as a barrier to new entrants. 62 FR 60853. Although protecting the financial integrity of the delivery process is a reasonable objective, the Order concluded that the CBT failed to provide a reasonable justification for the $40 million minimum net worth requirement in light of the 1997 proposal's other proposed financial integrity measures.[24] 62 FR 60857. Accordingly, the Commission eliminated the $40 million minimum net worth eligibility requirement, finding that it would have resulted in a high level of concentration and imposed a substantial and impermissible bar to entry to otherwise eligible firms without a demonstrated regulatory need for the requirement. 62 FR 60857.

B. The 1998 Net Worth Proposal

The 1998 proposal would restore a net worth eligibility requirement for shipping certificate issuers in the amount of $5 million. As under the 1997 proposal, this requirement is in addition to the other financial guarantees and conditions relating to working capital, letters of credit and a variable net worth requirement related to the value of outstanding shipping certificates. The CBT supports the requirement on the grounds that:

> The Exchange is responsible for ensuring the financial integrity of the delivery process through the specification of minimum financial requirements. Currently, the Exchange requires that firms approved as regular for delivery in the agricultural markets have a minimum net worth equal to $5,000 per contract of regular capacity. Firms which are regular for delivery on the grain contracts must also meet minimum working capital and performance bonding requirements based on their federally licensed storage capacity.
>
> In order to ensure the financial, operation, and administrative integrity of the shipping certificate delivery process, all market participants must view all certificates as equally fungible and be indifferent between issuers. Certificates issued by low net worth firms have several distinct disadvantages, particularly, a higher risk of default and lower operational efficiencies due to fewer shipping station locations, and therefore, potentially higher costs to the taker in assembling the minimum number of certificates necessary to load a barge. Furthermore, the cumulative contribution of low net worth firms does not substantially increase deliverable supply.

CBT March 20, 1998, submission at 4.

Section 15 of the Act requires that the Commission evaluate the 1998 proposal's anticompetitive effects against its effectiveness in achieving the policies and purposes of the Act. The effect of the proposed $5 million net worth requirement would be to limit issuance of shipping certificates to firms able to meet the requirement. However, the $5 million net worth requirement constitutes a far lower barrier to entry than did the 1997 proposal's $40 million requirement, which as the Order found, would have limited participation to ''four large grain firms.'' In contrast, for the corn futures contract, under a $5 million net worth requirement, five of the seven firms operating barge-loading facilities on the northern Illinois River potentially qualify for eligibility as shipping certificate issuers. For the soybean futures contract, eight of the eleven barge-loading firms operating on the Illinois River and at St. Louis would meet this eligibility requirement.[25] The proposed $5 million net worth requirement would constitute a lower barrier to entry. It also would have a more modest effect on reducing deliverable supplies for the futures contracts. United States Army Corps of Engineers' data for the 1995–96 crop year indicates that eligible firms shipped about 95 percent of all corn and soybeans from the proposed delivery areas.

Balanced against its anticompetitive effect, the $5 million net worth requirement may serve the regulatory purpose of increasing the efficiency of the contract's delivery mechanism.[26] Delivery takers are expected to attempt to reduce their costs by assembling the requisite number of shipping certificates from a single delivery facility to fill a barge. (A barge with a 55,000 bushel capacity will require assembly of 11-5,000 bushel certificates for delivery.) However, the smallest firms may not qualify to issue sufficient certificates for economically efficient consolidation and assembly.[27] Moreover, the $5 million net worth requirement may significantly reduce the CBT's administrative burden related to monitoring the financial status of eligible shipping certificate issuers on an on-going basis. Small, less financially secure firms likely would require more careful monitoring than financially stronger firms.

For the above reasons, the Commission finds that the anti-competitive effect of the $5 million proposed net worth eligibility requirement is not so great as to outweigh the regulatory purpose identified by the CBT and that its approval by the Commission is not contrary to section 15 of the Act.

Accordingly, for the reasons discussed above, the Commission grants the CBT applications for designation for futures contracts in corn and soybeans submitted on December 17, 1997, as supplemented on March 19, 1998, and amends its Order of November 9, 1997, as applicable to such contracts so as to be consistent with this action.

It is further ordered that this grant of designation shall be subject to CBT's

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[23] *British American Commodity Options Corp.* v. *Bagley*, [1975–1977 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,245 at 21,334 (S.D.N.Y. 1976), *aff'd in part and rev'd in part on other grounds,* 552 F. 2d. 282 (2d. Cir. 1977), *cert. denied,* 434 U.S. 938 (1977).

[24] These additional financial integrity provisions included the requirement that issuers of certificates obtain an irrevocable letter of credit in an amount equal to the value of their delivery commitments, maintain a minimum of two million dollars in working capital and be limited to issuing certificates of a value no greater than 25 percent of the issuer's net worth.

[25] As a result of this lower barrier to entry as well as the other changes, the resulting HHI declined from 3,300 under the 1997 soybean proposal to 2,918 under the 1998 proposal and for the corn proposals from 3,300 to 2,762.

[26] Protecting the integrity of the delivery process is a fundamental objective of the Act. *See, e.g.*, Sections 5a(a), 5a(a)(3), 5a(a)(4), 5a(a)(5), 5a(a)(7), and 5a(a)(10) of the Act. In particular, section 5a(a)(7) of the Act specifically recognizes that contract markets may impose reasonable requirements ''as to location, accessibility and suitability for warehousing and delivery purposes. * * *''

[27] The issuer must limit the value of its outstanding certificates to one-quarter of its net worth.

compliance with all sections of the Act applicable to the CBT as a contract market under the Act.

Dated: May 7, 1998.

By the Commission.

Jean A. Webb,

Secretary of the Commission.

The Commission has determined that publication of the Order will provide notice to interested members of the public of its action, is consistent with the Commodity Exchange Act and is in the public interest.

Issued in Washington, DC, this 7th day of May 1998, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–12664 Filed 5–12–98; 8:45 am]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [Vol. 63, No. 74/Friday, April 17, 1998/19245].

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., Thursday, May 21, 1998.

CHANGES IN MEETING: The time has changed from 10:00 a.m. to 2:00 p.m. for the Commission Agenda and Priorities public hearing.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: May 8, 1998.

Todd A. Stevenson,

Deputy Secretary.

[FR Doc. 98–12794 Filed 5–8–98; 4:33 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Joint Military Intelligence College: Notice of Closed Meeting

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Joint Military Intelligence College Board of Visitors has been scheduled as follows:

DATES: Monday, 8 June 1998, 0800 to 1800; and Tuesday, 9 June 1998, 0800 to 1200.

ADDRESSES: Joint Military Intelligence College, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Mr. A. Denis Clift, President, DIA Joint Military Intelligence College, Washington, DC 20340–5100 (202/231–3344).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed. The Board will discuss several current critical intelligence issues and advise the Director, DIA, as to the successful accomplishment of the mission assigned to the Joint Military Intelligence College.

Dated: May 6, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–12684 Filed 5–12–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Panel Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory Board has been scheduled as follows.

DATES: 20 and 21 May 1998 (800am to 1600pm).

ADDRESSES: The Defense Intelligence Agency, Bolling AFB, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Maj Michael W. Lamb, USAF, Executive Secretary, DIA Science and Technology Advisory Board, Washington, DC 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(I), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: May 6, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–12685 Filed 5–12–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Panel Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory Board has been scheduled as follows:

DATES: 28 May 1998 (800am to 1600pm).

ADDRESS; The Defense Intelligence Agency, Bolling AFB, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Maj. Michael W. Lamb, USAF, Executive Secretary, DIA Science and Technology Advisory Board, Washington, D.C. 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: May 6, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR 98–12686 Filed 5–12–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary; Defense Policy Board Advisory Committee

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Policy Board Advisory Committee will meet in closed session from 8 am until 6, pm, 19 June 1998 in the Pentagon, Washington, DC.