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DIVISION OF
ECONOMIC ANALYSIS

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February 24, 1999

Mr. Paul J. Draths
Vice President and Secretary
Chicago Board of Trade
141 West Jackson Boulevard
Chicago, IL 60604-2994

Re: Proposed Amendments to the Soybean Oil Futures Contract (Reference File #1893.01)

Dear Mr. Draths:

By letter dated December 23, 1998, the Chicago Board of Trade (CBT or Exchange) submitted for Commission review and approval under the 45-day fast-track procedures of Commission rule 1.41(b)(2), proposed amendments to its soybean oil futures contract. The proposed amendments would: (1) limit the warehouse receipt issue capacity of regular warehouses to 30 times their registered daily load-out rate, (2) increase the amount by which delivery differentials for delivery territories can be changed annually under the contract's automatic adjustment procedure, and (3) require that operators of warehouses not located on Class 1 railroads pay the switching and/or freight costs to the nearest Class 1 railroad interchange point if requested in writing by the taker of delivery (proposed Class I railroad amendment). On January 11, 1999, the Commission requested public comment on the proposed amendments for a 30-day comment period, ending on February 10, 1999. 64 FR 1603. Subsequently, by letter dated January 25, 1999, the Division of Economic Analysis (Division), pursuant to the authority delegated to it by Commission rule 1.41b(b)(2), found that the proposed rule amendments were novel and complex and extended the Commission's fast-track review period for 30 days, until March 15, 1999. On February 5, 1999, the Commission extended the Federal Register comment period for the proposed amendments by 15 days to February 25, 1999. 64 FR 5777.

The Division, pursuant to the authority delegated by Commission rule 1.41b(b)(2), hereby notifies the CBT under Commission rule 1.41(b)(4) that it is terminating the fast-track review procedures of rule 1.41(b)(2). This action is based upon the Division's finding that the proposed amendments to the CBT soybean oil contract may violate section (a)(3)((vi) of

Guideline No. 1, 17 CFR Part 5 Appendix A(a)(3)(vi) and Commission Rule 1.41(b)(2)(ii). Section (a)(3)(vi) of Guideline No. 1 provides that "the provisions for payment of costs in making and taking delivery, including a description of significant costs (such as . . . rail charges)" should conform to the cash market, or if at variance from the cash market, should be demonstrated to be necessary or appropriate for the contract. Moreover, Commission rule 1.41(b)(2)(ii) requires the submission to provide information regarding the operation of the proposed rules. Specifically, neither the proposed rule on its face nor the rule submission specifies the means by which the costs in making and taking delivery associated with the Class I railroad amendment will be calculated and paid. In addition, the CBT has failed to demonstrate that the contract, as amended, would comply with the Commission's policy on locational price differentials.[1]

Commission rule 1.41(b)(2)(4) provides that, within ten days of receipt of this notification, you may request that the Commission render a decision to approve the proposed rule or to institute a proceeding to disapprove the proposed rule by notifying the Commission that the CBT views its submission as complete and final as submitted. In the absence of such a notification, the Division will continue its review of the proposed amendments under the usual procedures of Section 5a(a)(12)(A) of the Act and Commission rule 1.41(b)(1). In this regard, the Division invites the CBT to supplement its submission by responding to the attached questions and submitting additional supporting data. The Division intends to move forward with its review as expeditiously as is practicable and would appreciate receiving the CBT's response as soon as possible. In order further to expedite the Division's review of the proposed rule amendments, the CBT may wish to instruct the Division to review the proposed Class I railroad amendment separately from the other proposed amendments contained in the December 23, 1999 submission.

[1] The Commission's policy on locational price differentials requires that the differentials applicable to each delivery territory fall within the commonly observed range of cash market differences for each delivery location in the territory. In this respect, in the Commission's September 3, 1985 letter notifying the CBT of its approval of the contract's existing territorial delivery system, the Commission stated that its approval of the territorial delivery differential system was "... based on information which indicates that the proposed delivery differentials will fall within the range of commonly observed cash market locational differentials for each economically distinct delivery point situated within each delivery territory." In addition, in its November 21, 1988 letter to the CBT approving the contract's existing automatic adjustment system for territorial price differentials, the Commission stated that its understanding "... that the Exchange will monitor actively the contract's locational differentials to ensure their continued compliance with section 5(d) and 5a(a)(10) of the Act and applicable Commission policies."

Please contact me or Fred Linse at (202) 418-5260, if you have any questions about this matter.

Sincerely

John R. Mielke
Acting Director

Attachment 1—Issues for Supplementation of Submission

1. Please explain how the proposed Class I railroad amendment will be implemented. In particular, would the buyer be responsible for arranging and paying for rail transportation from the facility? If so, in billing the regular facility operator, what documents would the buyer be required to provide to the operator to verify the authenticity of the bill? How will the amount to be billed to the facility operator be determined if the buyer ships the soybean oil through a Class I railroad interchange that is not the interchange nearest to the facility operator's regular warehouse? Alternatively, would the facility operator be permitted to satisfy this requirement by arranging and paying for shipment of the delivery soybean oil to the nearest Class I interchange? If so, would a buyer who wants the soybean oil moved to an interchange with another Class I railroad be required to accept the soybean oil at the nearest Class I interchange even if the buyer would prefer to have the product shipped through a different Class I railroad interchange?

2. Please provide additional justification for the proposed amendment's reliance upon Class I railroads as the reference location to which the regular facility operators on non-Class I railroads must move soybean oil at the buyer's request. In particular, what is the significance of Class I railroads in relation to crude soybean oil shipments? Do all Class I railroads within the contract's delivery area provide direct access between regular delivery facilities and refining plants or commonly used export locations without payment of switching fees?

3. In view of your answer to question 1, please provide supporting data or information that indicates that the proposed Class I railroad amendment will result in contract specifications that comply with the Commission's policy on locational price differentials. Specifically, since the proposed Class I railroad amendment will require operators of regular facilities on non-Class I railroads to pay the cost of shipping the product to the nearest Class I railroad interchange, the proposed amendment will effectively cause the futures delivery value of soybean oil for warehouses affected by the proposed Class I railroad amendment to reflect the value of soybean oil delivered to the nearest Class I railroad interchange. Accordingly, for each of the affected regular delivery facilities, please demonstrate that the contract's territorial price differentials will fall within the range of commonly observed or expected differences between the implied cash market value of soybean oil delivered to the nearest Class I railroad interchange for each such facility and the cash market value of soybean oil at regular delivery facilities located in the contract's par delivery territory. In addition, please demonstrate that the proposed Class I railroad amendment will cause the implied economic value of soybean oil delivered at the Class I railroad interchange nearest to each of the affected plants to equal approximately the value of soybean oil at all other unaffected delivery locations in the same delivery territory.

4. Without regard to the class of the railroad serving the plant, what other CSO regular delivery facilities within the CBT soybean oil futures delivery territories are situated similarly to those facilities currently located on non-Class I railroads with respect to transportation costs and value of the CSO, FOB at regular delivery facilities? How are they similar? How are they different?

5. Please supplement the data on warehouse receipts outstanding by regular warehouse shown in Attachment 8 of the CBT's December 23, 1998 submission by providing such data for the full period that has elapsed since the CBT implemented the existing automatic adjustment procedure for the soybean oil futures contract's delivery territory differentials.

6. Please clarify whether regular delivery facility operators not located on Class I railroads would be required to provide any compensation to buyers who elect to take delivery in trucks.

7. Please clarify the CBT's implementation plan in regard to the proposed amendment which sets the maximum limit of warehouse receipts that may be issued by regular warehouses at 30 times the regular warehouse's daily load-out capacity. Specifically, for regular warehouses that have total outstanding warehouse receipts in excess of the proposed new maximum limit, would such regular warehouse operators be required to take steps to reduce the level of outstanding warehouse receipts to the proposed new maximum limit by January 1, 2000, or would the warehouse operators simply be prohibited from issuing new receipts on and after January 1, 2000 until the level of outstanding receipts declined to a level that is less than the revised maximum limit?