



August 10, 2011

Mr. David A. Stawick  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

***RE: Adaptation of Regulations to Incorporate Swaps, Federal Register,  
Vol. 76, No. 10, June 7, 2011***

Dear Mr. Stawick:

The Agribusiness Council of Indiana appreciates the opportunity to provide comments on this proposed rule. We respectfully request that the Commission narrow and clarify its proposal, specifically with regard to amendments to Regulation 1.35, to avoid unnecessary regulation of cash grain transactions that explicitly have been exempted from regulation by the Commodity Futures Trading Commission (CFTC). As an Affiliate of the National Grain and Feed Association (NGFA), we would like to associate our organization with NGFA's comment letter and urge the Commission to revise its proposal along those lines.

The element of the proposal of greatest concern would require all members of a designated contract market (DCM) to "...record all oral communications that lead to the execution of transactions in a commodity interest or cash commodity." Further, the proposal would require that these records be maintained for five years and be identifiable by counterparty and transaction.

Many grain companies, feed manufacturers, processors and other commercial firms are members of DCMs where grain and oilseed contracts are traded like the Chicago Board of Trade, Kansas City Board of Trade and Minneapolis Grain Exchange. Some of these firms own and operate networks of country grain elevators, feed mills or processing facilities that purchase grains and oilseeds directly from their farmer-customers. Taken as written, this proposal would extend broadly into cash grain markets and would require that employees at hundreds of such facilities record telephone

conversations with producers from whom they are purchasing cash grain. These same country elevators and facilities would be required to preserve and maintain e-mail, facsimile and other communications with agricultural producers.

We believe strongly that such regulation of the cash marketplace was not intended by Congress nor, perhaps, by the Commission. Cash transactions, including cash forward contracts, explicitly have been exempted from CFTC regulation, but a literal reading of the proposal would seem to contradict this well-established concept. In addition, burdening facilities owned by companies that are members of a DCM with the new rules would create a highly undesirable bifurcation of the cash grain marketplace into facilities required to comply with new recording and recordkeeping requirements and facilities owned and operated by companies not members of DCMs whose facilities would not be required to comply. We urge the Commission to reconsider and amend the wording of the proposed rule to fully recognize the regulatory-exempt status of cash commodity sales and cash forward contracts. We would be happy to provide the Commission with additional information.

The ACI brings together two longstanding agribusiness associations: the Indiana Grain and Feed Association (formed in 1902) and the Indiana Plant Food and Agricultural Chemicals Association (formed in 1966). ACI has approximately 450 member companies spanning the Midwestern grain, feed, fertilizer and ag chemical industries.

Sincerely,



Beth Bechdol  
President, Agribusiness Council of Indiana

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