

http://www.usda.gov/service/web...ntext=kw...D...IT...&Item.drm=5121

2001

October 3, 2001

Roger Hinkle, Chief
Licensing Authority Branch
Warehouse and Inventory Division
Commodity Operations-USDA
Mail Stop-0553 -- Room 5968-S
1400 Independence Avenue, SW
Washington, DC 20250-0553

RE: Proposed Rule on Implementation of the United States Warehouse Act (USWA)-RIN:0560-AG45

66 FR 46310

Dear Mr. Hinkle:

This letter is being submitted during the public comment period on the Farm Service Agency's (FSA) proposed rule issued on September 4, 2001 governing electronic warehouse receipts (EWRs). We appreciate FSA's efforts to modernize the system involving warehouse receipts by moving to an electronic system for all commodities. The ICBA represents 5,000 community bank members across the United States including several thousand banks that lend to agriculture. ICBA is the only national trade association that exclusively represents community banks.

The ICBA is generally supportive of FSA's efforts to make U.S. agriculture more competitive in both domestic and foreign markets through the use of up-to-date computer technologies and information management systems. This new electronic system is intended to provide long-term benefits for agriculture and rural communities by streamlining the current system and lowering overall transaction costs. However, some of our community bank members have expressed concern over several provisions included in the proposed rule.

One of the concerns relates to any fees that could be assessed by FSA on "other users of the USWA." It is our understanding the fees assessed on warehouse operators and approved providers are intended to offset the cost of operating the revised USWA. We would be opposed to having producers and their lenders bear the cost of this new program. In addition, any fees assessed related to this program must be reasonable, easily identifiable and properly justified.

Another concern relates to the issuance of an EWR by the warehouse operator when it takes delivery of any agricultural product from the depositor. Currently, the proposed rule is silent on whether a bank that holds a security interest on an agricultural product should be notified of this transaction. We urge FSA to require warehouse operators to notify all lien holders whenever a depositor delivers the agricultural product to the warehouse operator regardless of whether an EWR is issued or not. At a minimum, any payment issued by the warehouse operator should be made payable jointly to the depositor and lien holder.

Some community banks also have expressed concern with FSA relying exclusively on the laws of New York State to determine all disputes arising under any transaction conducted through the use of an approved electronic provider. FSA should ensure that conflicting state laws are not pre-empted.

Thank you for the opportunity to comment on this important proposal. If further information is required, please contact Richard Gupton at (202) 659-8111 or via e-mail at richard_gupton@icba.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Gullledge', with a long horizontal flourish extending to the right.

Robert I. Gullledge

Chairman, ICBA