NGFA Barge Trade Rules

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Preamble: The following rules amend and are a supplement to the Grain Trade Rules and Feed Trade Rules so that such rules so amended apply to shipments of grain, oilseeds, hay and all feedstuffs, including mill products or byproducts, hereinafter referred to as "feedstuffs" whenever such shipments are designated by contract to be shipped by barge.

Where no distinction is made in the text of a rule among products covered by these rules, the rule applies to all grains, oilseeds and feedstuffs; otherwise the rule or subpart, wherein a distinction is made, covers only the product(s) mentioned.

All Active members and other parties using these rules are free to agree upon any contractual provisions, which they deem appropriate, and these rules apply only to the extent that the parties to a contract have not altered the terms of the rules, or the contract is silent as to a matter dealt with by the pertinent rule.

NGFA Barge Trade Rules

Rule 1. Applicable Equipment/Barge

Only single compartment barges or equipment that can be unloaded by a marine leg and that are 195/200 by 35 feet shall be tendered on contract except by mutual agreement of both the Buyer and Seller.

Rule 2. Passing of Title as Well as Risk of Loss and/or Damage

Title as well as risk of loss and/or damage, passes to the Buyer as follows:

(A) **Grain:**

(1) On f.o.b. origin contracts title and risk of loss shall pass from the Seller to the Buyer at the time and place of shipment. The time is the moment when the Seller notifies the Buyer that the barge is loaded.

(2) On c.i.f. contracts title and risk of loss shall pass from the Seller to the Buyer at the time and place of shipment. The time is the moment of either:

(a) the issuance of the bill of lading by the carrier or the carrier's agent in accordance with Seller's instructions; or

(b) transmittal by written communications of shipping instructions by the Seller to the carrier in accordance with Buyer's instructions.

(B) **Feedstuffs:**

(1) Title and risk of loss or damage caused by other than by going out of condition shall pass as provided in Rule 2(A), but the original shipper shall be responsible for the condition of the feedstuffs up to (a) five (5) calendar days subsequent to the arrival of the barge at destination; or (b) commencement of unloading of the barge, whichever occurs first.

(2) If the barge is sold after reaching its destination, the first Seller and each subsequent Seller will be responsible for the condition of the feedstuffs for five (5) calendar days following the date of each reconsignment.

(3) The Buyer shall have until 4 p.m. on the fifth calendar day following the date of arrival of the barge at destination to notify the Seller of any out of condition cargo. If the fifth (5) calendar day falls on a Saturday, Sunday or holiday, the following business day shall be considered the fifth calendar day.

(4) If the Buyer under the provisions of Rule 2(B) (1), (2) and (3) above declares a barge of feedstuffs to be infested, the Buyer shall notify the Seller of the cost of fumigation. The Buyer will assume the responsibility to fumigate the barge and charge the mutually agreed expense to the Seller. Alternatively, the Seller has the right to fumigate the barge within twenty-four (24) hours at the Seller's expense. If, in the latter case, the Seller has not fumigated the barge within twenty-four (24) hours, the Buyer may arrange for fumigation at the reasonable expense of the Seller. The barge cannot be rejected on account of infestation, and demurrage incurred shall continue for the account of the Buyer.

Rule 3. Inspection

Inspection as defined in Grain Trade Rule 10.

Rule 4. Destination Inspections, Quality and Condition Guaranteed on Arrival:

If barge grain is sold basis destination inspection, or guaranteed condition on arrival, it shall be the obligation of the Buyer to obtain an inspection or condition check within five (5) calendar days of the date of arrival of the barge. If the barge cannot be opened for inspection or condition check away from the unload berth because of faulty equipment on the barge, it shall be the obligation of the Buyer to notify the Seller within the period specified herein.

Rule 5. Feedstuffs-Analysis

(A) **Specific Analysis:** If the contract requires a specific analysis on the feedstuffs being shipped, the contract must specify whether a certificate of analysis is required, and if so, the certificate of analysis must specify the name of the laboratory issuing the certificate, the method of sampling used, when and where the sample was taken, and the percentage of each factor for which there is a contractual requirement.

(B) **Origin Analysis:** If feedstuffs are sold basis origin analysis, the last Buyer in the string to whom a barge has been applied may inquire of the original shipper as to its analysis provided at least five (5) business days have elapsed since the origin bill of lading date.

Rule 6. Weights

(A) Official Weights: Official Weights shall be those weights described in Grain Trade Rule 14 A(1) or Feed Trade Rule 22 A(1).

(B) Certified Weights: Certified Weights shall be those weights described in Grain Trade Rule 14 B(1) or Feed Trade Rule 22 B(1).

(C) If weights other than Official or Certified Weights are provided for in the contract of purchase and sale, the weighing party shall on request of the other party indicate the method of obtaining weights and such other information on the weighing process as the other party may reasonably request, including copies of supporting documentation.

(D) Cargo transferred by truck or rail car to the loading barge after weighing in the elevator, or cargo weighed after the transfer to the elevator by truck or railroad from the barge being unloaded, shall not be considered official or certified weights.

(E) Every official or certified barge unload weight certificate shall include either a statement that no cargo was left in the barge or a statement specifying the estimated quantity of cargo left in the barge.

(F) In the event any portion of the barge cargo is not unloaded at the receiving elevator or at the receiving point, the unloading Buyer must notify the Seller and the shipper within twenty-four (24) hours, or as soon thereafter as practicable.

(G) Grain: If the contract is based on destination weights, the unloading Buyer shall notify the original shipper and the barge operator of the final unload weights by telephone or rapid written communication within two (2) business days of unload, confirmed by mailing the original weight certificate to the original shipper and a copy to the Barge Operator within five (5) business days of unload, accompanied by a statement of the cost of weighing charges, if applicable.

Rule 7. Weight Settlements

(A) **Grain:** The original shipper shall issue an invoice and initiate final settlement with the attached original weight certificate, or a duplicate copy thereof. If the Buyer and Seller agree that payment is to be net cash upon receipt of invoice, the invoice shall be due and payable within five (5) business days, which is considered to be the normal time to clear the paperwork involved.

(B) **Feedstuffs**: The ultimate Buyer shall make final settlements of weight and quality with the original weight certificates, or duplicate copy thereof within five (5) business days of unload. If the Buyer and Seller agree that payment is to be net cash, all intermediate parties shall make final settlement with the original weight certificate, or a duplicate copy thereof, within five (5) business days of receipt, which is considered to be the normal time to clear the paperwork involved.

Rule 8. Time of Shipment

The date of the original barge bill of lading consigning the shipment to the destination specified by the contract shall be evidence of shipment and the determining date for establishing time of shipment on contract. The time of shipment must always fall within the contract period unless otherwise mutually agreed upon by Buyer and Seller.

Rule 9. Applicability/Application

(A) Application of a barge is the exchange from Seller to Buyer of the following information:

(1) Barge number;
(2) Barge operator;
(3) Loading elevator;
(4) Original shipper;
(5) Bill of lading date;
(6) Quantity in barge (bushels, tons);
(7) In the case of grain, the type of inspection (e.g., state or federal), numerical grade, and all factors.

(B) The bill of lading shall not predate notification of application by more than five (5) calendar days. (Example: Bill of Lading Date 4-7-21 — last applicable date 4-12-21 at 11 a.m. except for corn, which must be applied by 10:50 a.m.)

(C) Certificate(s) of inspection for grain barges shall not predate their corresponding bill of lading date(s) by more than three (3) calendar days.

(D) If grain transactions are made on the basis of origin official weights, the weight certificate shall not predate the bill of lading date by more than three (3) calendar days.

(E) Barges must be applied on contract verbally by telephone (written confirmation per Grain Trade Rule 30(C)(3) does not apply) on business days, holidays excepted, between the hours of 8 a.m. and 4 p.m., except for corn, which must be applied by 3:50 p.m. When the CBOT agricultural grain and oilseed contracts have a scheduled shortened session, applications must be made between the hours of 8 a.m. and 1 p.m., except for corn, which must be applied by 12:50 p.m. Last day application barges must be applied by 11 a.m. except for corn, which must be applied by 10:50 a.m.

(F) Application of grain barges may be made with the type of inspection certificate stipulated in the contract. If a subsequent federal appeal inspection does not meet contract requirements, the Buyer may reject application.

Rule 10. Billing Instructions

The Buyer shall furnish billing instructions to the Seller not later than 4:30 p.m. on the day of application. When the CBOT agricultural grain and oilseed contracts have a scheduled shortened session, the Buyer shall furnish billing instructions to the Seller not later than 1:30 p.m. on the day of application.

Rule 11. Reconsignment/Diversion

The Seller's only obligation with respect to destination on a c.i.f. or delivered sale in the Seller's barges is to furnish the Buyer the bill of lading ordering the barge to the rate point specified in the contract. Nothing in this rule shall be construed as preventing the Buyer from seeking to divert the barge to other than the specified destination.

Rule 12. Payment of Original Drafts and/or Invoices

Sight drafts or invoices are subject to payment on presentation to the Buyer or the Buyer's designated agent, when properly documented and substantiated by the original bill of lading, a certificate of cargo insurance where applicable, and any other loading documents required by the contract.

Drafting or invoicing may be made with the type of inspection certificate stipulated in the contract. If a federal appeal inspection was requested and the federal appeal inspection does not meet the requirements of the contract, the Buyer may reject the application. If the Buyer has not paid the draft or invoice, the Buyer may reject it. If the Buyer has paid the draft or invoice, the Seller shall reimburse the Buyer on demand for the full amount paid on the draft or invoice.

Rule 13. Demurrage

For barges applied before or after arrival at the destination specified by the contract, the buyer is entitled to such free time and demurrage terms as specified by the contract. Free time shall commence the first 7 a.m. following: (A) arrival of the barge at the destination specified by the contract; or (B) following notification of application if application is made after arrival of the barge.

Rule 14. Overfill and Underfill on Bushel/Tons Contracts

(A) **Grain:** Any underfill or overfill on barge grain shall be settled at the market value at the close of the first business day following the date of load or unload of the last barge in fulfillment of the contract, whichever weight is applicable.

(1) **Market Value:** "Market value" shall mean the basis at the close of the first business day following date of load or unload, whichever weight is applicable. The flat price shall be established at the time the overfill or underfill becomes known by both parties to the contract.

Overfills and underfills shall be settled on a basis over or under the futures month currently used for the majority of cash trades. To convert the basis the business day after the last load or unload to a basis relative to the futures month currently used for the majority of cash trades, the futures spread of the business day after last load or unload shall be used.

(2) **Tolerance:** On bushel contracts, a total tolerance of 10% more or less than the mean quantity up to a maximum of 30,000 bushels shall be permissible in the fulfillment of the contract. An overfill or underfill of 10% or 1,000 bushels, whichever is less, shall apply at contract price. If the total overfill or underfill is in excess of the lesser of 10% of the mean quantity or 1,000 bushels the entire overfill or underfill shall be settled at the market value.

(B) Settlements: Overfills and Underfills — Feedstuffs

Overfills and underfills within 5% of contract quantity shall be settled at the contract price. If the overfill or underfill is in excess of 5% of the contract quantity, the entire overfill or underfill shall be settled basis the fair market value at the close of the first business day following the date of load or unload of the last barge in fulfillment of the contract. If the contract calls for specific barge quantities, each barge shall be settled individually.

Rule 15. Definitions

(A) **Barge**

The word "barge" shall mean a covered barge commonly used for carrying bulk grain or feedstuffs. Weight or quantity requirements should be specified in contracts.

(B) **Cargo Insurance or Cargo Insured Bill of Lading**

The terms "Cargo Insurance" or "Cargo Insured" bill of lading as used in these rules shall mean protection afforded to the holder of title of not less than that described as follows: For all physical loss and/or damage to the cargo for any and all risks or perils (including but not limited to all Acts of God); provided that, there need not be protection for 1) shrinkage, expansion or other change to sound grain due to natural causes on sound grain; 2) loss, damage or deterioration resulting from delay in the delivery of the shipment and/or moisture content of the cargo itself; 3) any inherent vice or defect in the cargo; 4) improper stowage, or the physical act of loading or unloading, when not performed by carrier; 5) the authority of law, including without limitation, quarantine and embargo; or 6) the acts of the public enemy, hostilities, or war-like operations, whether or not there be a declaration of war.

It shall be the obligation of the Seller to furnish cargo insurance or a cargo insured bill of lading with respect to barges furnished by the seller involving CIF or delivered contracts. It shall be the obligation of Buyer to furnish cargo insurance with respect to barges furnished by the Buyer involving FOB contracts.

(C) **c.i.f.**

For purposes of barge contracts, the term c.i.f. or "delivered," followed by a destination point shall mean f.o.b. origin, but the price includes the cost of the cargo f.o.b. origin point, plus cargo insurance, plus barge freight to the destination rate point.

(D) **f.o.b.**

For purposes of barge contracts, the term f.o.b. means free of charge on board barge at point of origin.

(E) **Original bill of lading**

The term "original" when used in relation to bills of lading shall mean such a document that is original, complete and, if a negotiated order bill of lading, properly endorsed.