NGFA Feed Trade Rules

Adopted Oct. 05, 1921
Amended Oct. 11, 1940
Amended Sept. 30, 1948
Amended Sept. 26, 1950
Amended Nov. 13, 1952
Amended Sept. 13, 1955
Amended Sept. 09, 1957
Amended Sept. 14, 1959
Amended March 08, 1960
Amended March 23, 1962
Amended March 06, 1964
Amended March 19, 1965
Amended March 30, 1967
Amended March 27, 1969
Amended March 12, 1970
Amended March 25, 1971
Amended March 23, 1972
Amended March 01, 1973
Amended March 14, 1974
Amended March 20, 1975
Amended March 25, 1976
Amended March 23, 1977
Amended March 31, 1978
Amended March 08, 1979
Amended March 29, 1980
Amended March 26, 1981
Amended March 13, 1984
Amended March 27, 1990
Amended March 12, 1991
Amended March 24, 1992
Amended March 23, 1993
Amended March 21, 1994
Amended March 13, 1995
Amended March 15, 1996
Amended March 21, 1997
Amended March 23, 1999
Amended March 31, 2000
Amended March 16, 2001
Amended March 19, 2002
Amended March 16, 2004
Amended March 20, 2007
Amended March 28, 2008
Amended March 31, 2009
Amended March 05, 2010
Amended March 15, 2011
Amended March 19, 2013
Amended March 17, 2015
Amended March 15, 2016
Amended March 21, 2017
Amended March 20, 2018
Amended March 10, 2020
Amended March 31, 2021
Amended March 02, 2023
Amended March 01, 2024
Amended Feb. 26, 2026

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Preamble: The following rules shall govern all transactions of a financial, mercantile or commercial character connected with feed and feedstuffs arising between Active members of the National Grain and Feed Association (NGFA) and other parties using these rules, unless otherwise and specifically agreed to at the time of the trade, or subsequent thereto.

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 Feed Trade Rules

Rule 1. Trade

Both the Buyer and Seller shall include in their original articles of trade, whether entered into orally or in writing the following specifications, if applicable:

(A) Date of contract and trade date
(B) Quantity
(C) Kind and description (including quality) of feed
(D) Type of weights
(E) Price
(F) Terms of payment
(G) Transportation specifications:
  (1) Type of conveyance
  (2) Applicable Freight Terms
  (3) Type of billing
    Transit (storage or milling)
    Non-transit
    Export
    Multi-car specifications
  (4) Point of origin and/or delivery and/or rate-basing point
  (5) Loading weight requirements
  (6) Time of shipment or delivery
  (7) Route
  (8) Responsibility for freight changes
  (9) Buyer's or Seller's conveyance
  (10) Private or rail system equipment
  (11) Freight prepaid or collect
  (12) Mechanical seals
(H) Production origin of feed
(I) Responsibility for import/export duties
(J) Applicable Trade Rules to apply
(K) Usual Terms:
  The specifications above shall apply except in cases where the Buyer and the Seller have been trading on agreed terms and conditions, in which event it shall be sufficient for the words "usual terms" to be used in confirmation, and the use of said words shall imply that such terms and conditions as governed previous trades of like character shall apply.
(L) Other Terms

Rule 2. Brokers

(A) A broker is a person, firm or electronic trading platform that is engaged on behalf of others, at least partially on a commission basis, to negotiate or facilitate the formation of contracts for goods of which the broker has no actual or constructive custody.

(B) A person, firm, or electronic trading platform is not a broker:

(1) who has possession and absolute control of merchandise shipped to them to sell and collect the price. (Therefore, a commission merchant to whom feed is consigned for sale is not a broker.)

(2) who receives a salary instead of a commission or brokerage.

(3) who acts for one principal to the exclusion of all others.

(C) A broker has the power to bind the principals only to the extent of the broker's instructions. The principals are not liable for any acts of the broker in excess of such instructions.

(D) A broker who, in good faith or otherwise, exceeds the broker's authority is liable for any resulting damages.

(E) A broker that, in good faith, negotiates, or facilitates the formation of a contract in accordance with instructions from both principals; identifies the principals to each other at the time of negotiations or facilitation, and completes such negotiations or facilitation in accordance with the rules and customs governing such transaction, thereby fulfills all obligations and has no further liability to either principal. The contract so negotiated or facilitated is valid and binding between the Buyer and Seller as if it had been negotiated or facilitated directly between them.

(F) Brokerage shall be credited when shipments are invoiced or when contract is otherwise consummated or terminated.

Rule 3. Confirmation of Contracts

(A) Both the Buyer and Seller shall send a written confirmation, each to the other, not later than the close of the business day following the date of trade, or an agreed amendment setting forth the specifications as agreed upon in the original articles of trade, or an agreed amendment. Upon receipt of said confirmation, the parties shall carefully check all specifications therein and, upon finding any differences, shall immediately notify the other party to the contract by rapid written communication, or by telephone confirmed by subsequent written communication.

(B) If either the Buyer or the Seller fails to send a confirmation, the confirmation sent by the other party will be binding upon both parties, unless the confirming party has been immediately notified by the non-confirming party, as described in Rule 3(A), of any disagreement with the confirmation received.

(C) When a trade is made through a broker, it shall be the duty of the broker to send a written confirmation not later than the close of the business day following the date of trade to each of the principals setting forth the specifications of the trade, or an agreed amendment. Upon receipt of said confirmation, the parties shall carefully check all specifications therein, and upon finding any differences, shall immediately give notice to the other party to the contract and to the broker. If either party fails to give such notice, the terms and specifications contained in the confirmation issued by the broker shall govern the contract.

(D) A document or record otherwise complying with this rule shall be effective even though it fails to use the term "confirmation."

Rule 4. Alteration of Contract

The specifications of a contract cannot be altered or amended without the expressed consent of both the Buyer and Seller. Any alteration mutually agreed upon between Buyer and Seller must be confirmed by written communication by both parties by the end of the next business day.

Rule 5. Electronic Communication

These rules may be applied to trades that occur by electronic methods in lieu of conventional paper-based documents. A party to a trade may, in lieu of paper-based documents, transmit or receive from the other party an electronic communication, and such electronic communication shall suffice in lieu of a paper-based document. An exchange of communications between the parties by electronic means constitutes acknowledgement of that means as a viable method of contractual communication.

Rule 6. 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) On f.o.b. origin or f.o.b. basing point contracts, at the time and place of shipment. The time of shipment is the moment that the carrier accepts the appropriate shipping document.

(B) On delivered contracts:

(1) By rail, when the conveyance is constructively placed or otherwise made available at the Buyer's original destination.

(2) By truck, upon delivery at the Buyer's final destination.

(3) By container: On container yard contracts upon return of the container at the Buyer's designated destination.

(C) On in-store contracts, at the time of contract, transfer, or sending of documents, unless and to the extent warehouse tariff, warehouse receipt, and/or storage contract assumes the risk of loss and/or damage.

Rule 7. Rail Loading Weight Requirements

(A) **FOB Contracts**

If feed is sold other than loaded, the Seller shall request loading weight instructions from the Buyer prior to the loading of cars. If the Buyer fails to give such instructions in a timely manner, the Seller shall load the cars to their full visible capacity without exceeding a maximum of 263,000 pounds gross weight. This provision shall not require the Seller to load more or less feed than set forth in the contract.

(B) **Delivered Contracts**

(1) For feed that is sold basis delivered to a specific destination, the Seller shall load cars in accordance with the applicable carrier(s) rule(s) and/or federal law in effect on the date of shipment, and shall assume any loss resulting from noncompliance with such rules. In the event the weight prescribed by the applicable carrier(s) rule(s) and/or federal law is changed between the date of sale and date of shipment, the Seller shall deliver feed in accordance with the weight requirements in effect on date of shipment. Any resulting variance from the original contract shall be settled at the market price on the date of shipment.

(2) For feed that is sold delivered to a price basing point, the Seller shall request loading weight instructions from the Buyer prior to the loading of cars. If the Buyer fails to give such instructions in a timely manner, the Seller shall load the cars to their full visible capacity in accordance with the applicable carrier(s) rule(s) and/or federal law in effect on the date of shipment to that price basing point, and shall assume any loss resulting from noncompliance with such rules. In the event the weight prescribed by the applicable carrier(s) rule(s) and/or federal law is changed between the date of sale and date of shipment, the Seller shall deliver feed in accordance with the weight requirements in effect on date of shipment. Any resulting variance from the original contract shall be settled at the market price on the date of shipment.

(C) Open top rail cars (covered or not) and boxcars are not applicable to feed contracts.

Rule 8. Bills of Lading

(A) Order bills of lading shall be original and negotiable, and conform to the specifications of the contract on which the shipment is to apply. Any errant party shall pay any loss that is caused by incorrect bills of lading.

The Seller shall be liable for any demurrage and/or additional charges accruing on feed billed to "shipper's order," when such charges are attributable to the inability of the Buyer to obtain rightful possession of the bill of lading whenever said bill of lading is necessary to furnish disposition, provided that the Buyer notifies the Seller upon the date of arrival.

(B) Straight bills of lading shall be original and conform to the specifications of the contract on which the shipment is to apply. Any errant party shall pay any loss that is caused by incorrect bills of lading.

(C) Electronic Data Interchange (EDI) bills of lading shall be signed or unsigned and conform to the specifications of the contract on which the shipment is to apply. These bills of lading do not waive any of the terms and conditions of the applicable uniform domestic straight bill of lading set forth in the uniform freight classification, including those terms and conditions on the back of the bills of lading.

Rule 9. Routing of Rail Feed

(A) Feed that is sold delivered shall be deliverable via any railroad at the discretion of the Seller. If such shipments are routed by the Buyer, the carrier becomes the Buyer's agent, and the Seller's liability for routing ceases when the Seller furnishes bill of lading in accordance with the Buyer's instructions.

(B) Feed that is sold track or f.o.b. the original point of shipment shall be routed in accordance with the billing instructions furnished by the Buyer. If the Buyer fails to furnish routing instructions to the Seller along with the billing instructions, unless previously furnished, then the Seller has the discretion to route the shipment via any reasonable route. If available railroad equipment, or other reason, precludes routing as requested, then the Seller has the responsibility of so advising the Buyer.

Rule 10. Rail Privileges

In all delivered sales to any terminal market or rate-basing point, the point specified shall be considered as a rate basis only and not necessarily final destination of goods, and shipment shall be made to any point and via any line open for business designated by the Buyer which is reached by lake, or lake- and rail-lines during the season of navigation, or by all-rail trunk lines at other times, provided shipment is made within contract time, and provided further that such routing is in accord with transit arrangements of the shipper.

Rule 11. Time of Shipment

On the date of contract, the shipping schedule shall be determined by specifying: (1) requested date(s); or (2) frequency of shipment [in days, weeks, or month(s)]; or (3) one of the shipment terms defined below. Also, the contract shipping period shall be specified.

(A) **"Immediate"** means shipment within three (3) calendar days from the date of the trade.

(B) **"Quick"** means shipment within five (5) calendar days from the date of the trade.

(C) **"Prompt"** means shipment within ten (10) calendar days from the date of the trade. When no shipping period is specified, "Prompt" shipment shall apply.

(D) **"Loaded," "spot,"** or **"on-track"** means that the goods are actually loaded and ready for billing, and must be billed on the date of the trade.

(E) **"In transit"** means that the car must have been billed at least one day prior to the date of the trade.

(F) **"Weekly"** means shipment during each calendar week that begins on a Monday and the schedule shall specify the requested Monday date(s).

(G) **"First Half"** of the month means that shipment shall occur during the first fifteen (15) days of the month (including February) and shipment "Last Half" means shipment shall occur in the remaining days of the month.

(H) **"Monthly"** means that shipment shall occur during the period beginning with the first day and ending with the last day of the month.

(I) **"Buyer's Option"** means that the Seller shall have five (5) calendar days after receipt of shipping instructions in which to make shipment.

The contract shipping period is that period of time during which shipment must be made.

When a scheduled ship date or shipping period begins or ends on a Saturday, Sunday, or Legal holiday, shipment shall be made on the next business day.

Rule 12. Evidence of Shipping Date

(A) On carload shipments, the date shown on the railroad expense bill shall be the governing factor as to date of shipments, unless conclusive evidence to the contrary can be shown.

(B) On truckloads, dray tickets or properly executed documents from the Seller to the trucking company shall be accepted as evidence of the date of shipment.

(C) Dray tickets or shipping receipts when dated and signed by railroads in terminal markets shall also be accepted as evidence of shipment.

(D) In terminal markets, where the loading is made on a railroad line other than the one which will perform the road haul, and line haul carrier will not sign lading until the car is received at its rails, a switching order carrying full shipping instructions, given to and duly signed and dated by the authorized agent of the carrier on whose line the car is loaded, shall be evidence that the car is loaded within the life of the contract.

(E) On the last day of shipment under the contract, Seller shall provide car numbers on Buyer's request by 4 p.m.

(F) On delivered ramp containers, the stamped drayage ticket date indicating the container has been returned to the ramp shall be accepted as evidence of shipment.

(G) On FOB containers, the time stamped scale ticket when the container is weighed shall be accepted as evidence of shipment

Rule 13. Rail Notice and Billing Instructions

The words, "notice," "notify," and "notification" mean verbal communication or rapid written communication. Cars shall be billed to a named destination and ordering cars to lines for billing purposes does not constitute billing to a named destination.

Notification(s) and billing instruction(s) shall be provided during the Contract Shipping Period. A change in specifications previously filed with the Seller does not extend any contract except upon mutual agreement at the time such change is requested.

To comply with the "Time of Shipment" (Rule 11) schedule, the Buyer shall notify the Seller and furnish billing instructions as follows:

(A) **Requested Date(s)**: On the date of trade.

(B) **Frequency of shipment [in days, weeks, or month(s)]**: On the date of trade.

(C) **Shipment Terms:** If any one of the following shipment terms is specified on the date of trade, the Buyer shall notify the Seller and furnish billing instructions as follows:

(1) **Immediate, Quick, Loaded, Spot, On-Track, and/or In Transit:** On the date of trade.

(2) **Weekly:** By Wednesday of the shipping week.

(3) **First or Last Half:** By the seventh business day of the shipping period.

(4) **Monthly:** By the seventh calendar day before the end of the month. If that day falls on a weekend or legal holiday, the preceding business day applies

(5) **Prompt:** Within seven calendar days of the date of trade.

(6) **Buyer's Option:** By the fifth business date before expiration of the contract shipping period.

During the Contract Shipping Period (excluding Buyer's Option), if the Buyer has not yet provided billing instructions, the Seller may notify the Buyer regarding applicable car number(s) and request suitable billing instructions. The Buyer shall be responsible for all charges that accrue after 4 p.m. that day. The Seller's liability for deterioration of quality, due to delay in shipment, ceases 72 hours after notification, if the cars have not yet been billed.

Any time during the contract shipping period, the Seller may demand billing instructions (excluding Buyer's Option) and the Buyer shall provide them by the third business day after such demand. For monthly shipment terms, the Seller has seven days to ship the car(s) from receipt of billing instructions, if so demanded. Failure, by the Buyer, to provide billing instructions shall constitute "Default on Shipping Period" (Rule 19).

If the Seller fails to demand billing instructions and the Buyer fails to provide billing instructions, the contract shall remain in force until such time that either the Seller does demand billing instructions or the Buyer does provide billing instructions.

If the Buyer is late in providing billing instructions, the Seller may extend the time of shipment by an equivalent amount of time, except for monthly shipment terms where the Seller has seven days to ship the car(s) from the receipt of billing instructions. The Seller shall have the same amount of time to make shipment, after late receipt of the billing instructions, as was originally specified in the contract.

Rule 14. Rail Demurrage and/or Additional Charges

The Seller shall be liable for any demurrage and/or additional charges accruing on feed billed to "shipper's order" or "delivery order" when such charges can be shown to have accrued by reason of the inability of the Buyer, through act of the Seller or the Seller's agent, to get possession of the bill of lading and/or other documents necessary to furnish disposition and also providing Buyer notifies Seller on date of arrival that such documents are unavailable to Buyer.

Rule 15. Shortage and/or Damage

(A) **Rail Shipments**

All claims for shortage and/or damage shall be made by the receiver within thirty (30) days after arrival, and must be accompanied by paid expense bill together with railroad agent's written report as to condition of car, contents, damages and/or shortages as well as listing of seal numbers with a copy of bill of lading and invoice, or in case of truck shipment, driver's or receiver's agent's notation on delivery and/or truck bill of lading.

(B) **Truck Shipments**

All claims for shortage and/or damage shall be made by the receiver within thirty (30) days after arrival and must be accompanied by driver's or receiver's agent's notation on delivery and/or truck bill of lading.

Rule 16. Quality Outside of the Contract Terms

(A) Rail Shipments

(1) When the Seller becomes aware that the quality of the shipment does not comply with the contract terms, the Seller is obligated to notify the Buyer not later than 12 p.m. the next business day by rapid written communication, or by telephone confirmed by subsequent written communication. The Buyer and Seller subsequently may agree upon the terms of any acceptance of the shipment.

(2) The Buyer must exercise due diligence to ascertain by inspection and report if the shipment does not comply with contract terms to the Seller not later than 12 p.m. of the second business day after arrival at final destination, otherwise the Seller's liability ceases at the expiration of such time.

(B) Truck Shipments

(1) When the Seller becomes aware that the quality of the shipment does not comply with the contract terms, the Seller is obligated to notify the Buyer not later than 12 p.m. the next business day by rapid written communication, or by telephone confirmed by subsequent written communication. The Buyer and Seller subsequently may agree upon the terms of any acceptance of the load.

(2) The Buyer must exercise due diligence to ascertain by inspection and report if the shipment does not comply with the contract terms to the Seller or the vehicle driver.

(C) Container Shipments

(1) When the Seller becomes aware that the quality of the shipment does not comply with the contract terms, the Seller is obligated to notify the Buyer not later than 12 p.m. the next business day by rapid written communication, or by telephone confirmed by subsequent written communication. The Buyer and Seller subsequently may agree upon the terms of any acceptance of the shipment.

(2) The Buyer must exercise due diligence to ascertain by inspection and report to the Seller if the shipment does not comply with the contract terms.

Rule 17. Condition Guaranteed Upon Arrival

(A) The Seller shall guarantee shipments to arrive at final destination in a condition, cool, sound and sweet, free of objectionable extraneous material and dischargeable from the conveyance without excessive or unsafe action, with the following exception: When shipments are ordered to a reconsignment point, the Seller shall not be responsible for condition at final destination unless shipments are ordered forward from such reconsignment points within 48 hours after arrival, and the Seller shall not be responsible for condition at final destination if a second reconsignment or diversion is made.

(B) **(1) Rail Shipments**

It shall be the duty of the Buyer to ascertain by inspection or other means and report the condition of the shipment not later than 12 p.m. of the second business day after arrival at final destination, otherwise the Seller's liability ceases at the expiration of such time.

(2) Truck Shipments

The Buyer must exercise due diligence to ascertain by inspection and report the condition of the shipment to the Seller or the vehicle driver.

(C) A Buyer receiving a shipment that is out of condition on arrival, and handled as outlined in preceding paragraphs, shall upon Seller's request, unload, recondition, and salvage to best advantage of the Seller whenever practical to do so.

If the Buyer is unable to handle as requested, it shall be the Buyer's duty to notify the Seller of this fact at the time the Buyer notifies the Seller of the shipment's condition and the Seller shall dispose of the shipment and shall, at the Buyer's option, either cancel the affected portion of the contract or make a replacement shipment.

(1) In the event the Buyer elects to cancel the affected portion of the contract, then the contract shall be cancelled at the fair market price on the date the shipment is rejected and the Buyer shall reimburse the Seller for any market loss suffered through cancellation and the Seller shall pay to the Buyer any market gain received through cancellation.

(2) In the event the Buyer requests replacement, then the Seller shall be obligated to make replacement, and the Buyer shall be obligated to accept such replacement, which must be made by a new shipment within four (4) calendar days (excluding Saturday, Sunday, and legal holidays) from the date of refusal by the Buyer.

Rule 18. Refusal of Shipment

Failure to make any shipment in keeping with the terms and conditions of a contract shall be grounds for the refusal only of such shipment or shipments, and not for the rescission of the entire contract or any other contract between the Buyer and Seller.

Rule 19. Default on the Shipping Schedule and/or the Contract Shipping Period

(A) Default by the Seller: When the Seller finds the Seller to be in default on the shipping schedule, and/or the contract shipping period, the Seller shall notify the Buyer at once by telephone confirmed by subsequent written communication.

Upon receipt of such notice, the Buyer shall, within twenty-four (24) hours thereafter, advise the Seller by telephone confirmed by subsequent written communication which of the following options the Buyer elects to exercise:

(1) agree to extend the shipping period; or

(2) buy-in, for the Seller's account, the defaulted portion of the shipments; or

(3) cancel the defaulted portion of the shipments at fair market value based on the day this option is exercised.

If the Seller fails to notify the Buyer of the Seller's default, the liability remains in force until the Buyer, by the exercise of due diligence, can determine whether the Seller has defaulted. The Buyer shall notify the Seller at once by telephone confirmed by subsequent written communication and within twenty-four (24) hours thereafter, advise the Seller by telephone confirmed by subsequent written communication, which of the options (1) or (2) or (3) above the Buyer elects to exercise.

If the Seller defaults on the contract, the Seller is liable for all reasonable costs and expenses as shall have been incurred to and including the day the Buyer elects one of the three options.

(B) Default by the Buyer: When the Buyer finds the Buyer to be in default on the shipping schedule and/or the contract shipping period, the Buyer shall notify the Seller at once by telephone confirmed by subsequent written communication.

Upon receipt of such notice, the Seller shall, within twenty-four (24) hours thereafter, advise the Buyer by telephone confirmed by subsequent written communication which of the following options the Seller elects to exercise:

(1) agree to extend the shipping period; or

(2) sell-out, for the Buyer's account, the defaulted portion of the shipments; or

(3) cancel the defaulted portion of the shipments at fair market value based on the day this option is exercised.

If the Buyer fails to notify the Seller of the Buyer's default, the liability remains in force until the Seller, by the exercise of due diligence, can determine whether the Buyer has defaulted. The Seller shall notify the Buyer at once by telephone confirmed by subsequent written communication and within twenty-four (24) hours thereafter, advise the Buyer by telephone confirmed by subsequent written communication which of the options (1) or (2) or (3) above the Seller elects to exercise.

If the Buyer defaults on the contract, the Buyer shall be liable for all the reasonable costs and expenses as shall have been incurred to and including the day the Seller elects one of the three options.

(C) This rule does not permit compensation to the defaulting party to a contract.

Rule 20. Production Origin of Feed

A sale of feedstuffs must be for a product of United States origin unless otherwise specified at time of sale. If the contracting parties designate a specific non-U.S. origin as the shipment point, then it shall be presumed that the feedstuff was produced in that country unless otherwise specified at the time of sale.

Rule 21. Labeling

Bagged feed must bear a complete label, either stenciled upon the bag or on a tag attached thereto, indicating the net weight, name brand or trademark, minimum percent of protein and fat, and maximum percent of crude fiber, the specific name of each ingredient, expressed in its common or usual term, together with name and address of the manufacturer. On bulk shipments, either the analysis tag is to be attached to invoice or analysis is to be stamped or typed on all invoice papers. Labels, where used, must be clear and distinct, in type of sufficient size to be easily read, and must conform to applicable state law or the uniform label adopted by the Association of American Feed Control Officials where a specific state law is not applicable.

Rule 22. Weights

On the date of trade, the Seller and Buyer shall agree on the market where the weights will be obtained and the rules governing that market shall apply. When feed is shipped in bulk, the following type weights may be specified:

NGFA Feed Trade Rules

(A) **Official Weights**

(1) **U.S. Official Weights**

(a) U.S. Class X Weights: An official Class X weight shall be any weight that meets the requirements specified by the U.S. Department of Agriculture in its regulations implementing the U.S. Grain Standards Act.

(b) U.S. Class Y Weights: An official Class Y weight shall be a partially supervised weight that meets the requirements specified by the U.S. Department of Agriculture in its regulations implementing the U.S. Grain Standards Act.

(2) **Canadian Official Weights**: An official weight shall be any weight that meets the requirements specified by the Canadian Grain Commission in its regulations implementing the Weights and Measures Act.

(B) **Other Weights**

(1) **U.S. Certified Weights:** A certified weight shall be any weight that is obtained by a licensed weigher, using a certified scale. A scale shall be considered certified when it meets the requirements specified in the current edition of Handbook 44 (published by the National Institute of Standards and Technology) and has successfully passed inspection, at least annually, by the U.S. Department of Agriculture or its approved agent, a State Board of Weights and Measures, or its approved agent. A scale, to remain certified, must be tested and pass inspection a minimum of once every twelve months or more frequently when required by the governing regulatory authority.

(a) Class I: A weight documented by a weight certificate obtained by a licensed weigher using a certified scale under 100% supervision of a disinterested third party.

(b) Class II: A weight documented by a weight certificate obtained by a licensed weigher using a certified scale under a minimum of 25% supervision of a disinterested third party.

(c) Class III (or Certified House Weights): A weight documented by a weight certificate obtained by an unsupervised licensed weigher using a certified scale.

(2) **Canadian Certified Weights:** A certified weight shall be any weight on an approved scale meeting the requirements specified by the Weights and Measures Act and Regulations of Canada. A qualified representative of the company (in-house weight) issuing a certified weight certificate shall supervise weighing.

(3) **Affidavit Weights:** Affidavit weights are those obtained by a weigher on any scale not inspected for certification within the past twelve months.

(4) **Railroad Weights**: Railroad weights shall be weights obtained by a rail carrier using track scales to obtain a gross weight less rail car marked tare weight to determine a net weight.

(C) **Weight Settlements**

(1) If weight terms have not been specified in the contract, then the Seller's weight shall govern if it is a U.S. or Canadian Official, Canadian Certified, or U.S. Certified Class I or II weight as defined in this rule.

(2) If weight terms have not been specified in the contract and the Seller cannot furnish a U.S. or Canadian Official, Canadian Certified, or U.S. Certified Class I or II weight as defined in this rule, then the Buyer's U.S. or Canadian Official, Canadian Certified, or U.S. Certified Class I or II weight shall govern.

(3) If weight terms have not been specified in the contract, and neither Buyer nor Seller can furnish a U.S. or Canadian Official, Canadian Certified, or U.S. Certified Class I or II weight as defined by this rule, then the first weight supplied by either the Seller or Buyer which meets the requirements of this rule for a U.S. Certified Class III weight shall govern. If neither the Buyer nor Seller can furnish a U.S. Certified Class III weight, then the first Affidavit weight supplied

by either Buyer or Seller shall govern. If neither the Buyer nor Seller can furnish any weight meeting any of the foregoing requirements, then the first Railroad weight supplied by either Buyer or Seller shall govern.

Rule 23. Uniform Certificate for Affidavit Weights

When a shipper or receiver furnishes an affidavit weight, the certificate shall show the following information:

(1)Car number and date of loading . . . . . .
(2) Seal numbers . . . .
(3) Type of scale used:
Hopper Scale . . . .
Track Scale . . . . . .

If Hopper Scale:
(a) Size of dump . . . .
(b) Number of dumps . . . . . .
(c) Partial dump . . . . . .
(d) Total Weight . . . . . .
This Hopper Scale was last tested by. . .

If Track Scale:
(a) Private or Railroad (state which). . . .
(b) Gross Weight. . . . . .
(c) Marked Tare (whether or not used) .
(d) Net Weight. . . . . .
(e) Actual Tare (unless railroad scale). . .

If private Track Scale:
This Track Scale was last tested . . . . . .
by. . . . . .
Signature. . . . . .

Rule 24. Registration

On sales of feedstuffs, the Seller guarantees that the feedstuffs shall comply with the laws of the state into which it is sold, including registration and tax, if any.

Rule 25. Drafts

(A) Margins

If sales are made on destination terms, the Seller shall leave ample margin in the Seller's drafts to provide for possible variations in weights, grades or other quality factors.

(B) Overdrafts

If an overdraft has been made on a feed shipment, and has been discovered before the draft is paid, the Buyer shall elect either to pay the overdraft for account of the Seller, or to request the Seller to reduce the Seller's draft to the proper amount.

If the Buyer elects to pay the overdraft for account of the Seller, or if drafts are paid and an overdraft is not discovered until final accounting is rendered, the Seller shall reimburse the Buyer on demand for the full amount of said overdrafts.

Rule 26. Payment That Is Conditioned on Presentation of Original Drafts and/or Invoices

If payment is conditioned on presentation of original drafts or invoices, the Seller shall provide to the Buyer, or other such consignee as may have been previously designated by the Buyer, an invoice giving the conveyance identification, kind and type of feed, actual or estimated weight (state which applies), price, contract on which shipment is to apply, date of contract, date of shipment, point of origin, amount of invoice, and complete railroad routing, if applicable.

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, and/or delivery order and, if applicable, original weight and inspection certificate(s).

Rule 27. Arbitration

Where a transaction is made subject to these rules in whole or in part, whether by express contractual reference or by reason of membership in this Association, then the sole remedy for resolution of any and all disagreements or disputes arising under or related to the transaction shall be through arbitration proceedings before the National Grain and Feed Association pursuant to the NGFA® Arbitration Rules; provided, however, that at least one party to the transaction must be a NGFA member entitled to arbitrate disputes under the NGFA Arbitration Rules.

Rule 28. Definitions

(A) **Business Day**

For the purpose of these rules, a "business day" shall be defined as the hours from 8 a.m. to 5 p.m. in Chicago, Illinois, USA excluding Saturday, Sunday and legal holidays. Wherever the term "holiday" or "legal holiday" appears in these rules, or in a contract, it shall mean those scheduled holidays observed by the Chicago Board of Trade, Chicago, Illinois, USA.

(B) **Buying-In**

When the phrase "buy-in" is used in these rules it shall mean an actual purchase of feed of like kind and quantity on the open market; provided, that when this is not feasible or would result in undue penalty to the Seller, the Buyer shall have the privilege of establishing a fair market value for the purpose of determining any loss properly chargeable to the Seller.

(C) **Communications**

(1) Written communication, confirmation or notification shall include those communications sent/received by postal mail, courier, or electronic means. The sender shall be responsible for the correct transmission of the message.

(2) Rapid written communication, confirmation or notification shall mean those communications sent/received by electronic means. The sender shall be responsible for the correct transmission of the message.

(3) Telephone, verbal or voice communication, confirmation, or notification must be confirmed by subsequent written communication.

(D) **Container**

The term "container" when used in these rules refers to an intermodal shipping container commonly used for carrying bulk grain or feedstuffs. Shipping container dimensions and weight loading requirements should be specified in contract confirmations exchanged between parties.

(E) **Delivery**

(1) Rail and Barge

The term "delivery" when used in these rules shall mean that the conveyance has been actually or constructively placed to the Buyer.

(2) Truck

Truck feed shall be considered to have been delivered at the time and date of unloading as evidenced by a scale ticket or dock receipt issued by the receiving facility.

(F) **Electronic Trading Platform**

The term "Electronic Trading Platform" shall include all systems designed for execution of trades in cash markets on an open, or Internet-based, electronic network.

(G) **Feed or Feedstuffs**

The definitions of "feed" or "feedstuffs" shall be material consumed or intended to be consumed by animals other than humans that contributes nutrition, taste, or aroma or has a technical effect on the consumed material. This includes raw materials, ingredients, and finished product.

(H) **Futures**

All references in these rules or contractual documents to futures markets, close of market, futures spread, futures or futures-related pricing, and similar terms shall mean the trading day as defined by the CME Group or, when so designated, the day session of other futures exchanges in North America.

(I) **Mechanical Seals**

For the purposes of these rules, a "mechanical seal" shall be defined as a locking mechanical device, readily identifiable by unique markings or numbers, whose primary purpose is to provide evidence of tampering with the conveyance, and whose type and/or usage may be mutually agreed upon between the Buyer and Seller as part of the contract terms.

(J) **Notice; Furnish**

The terms "notice" and "furnish," or any derivatives of these words, when used in these rules shall mean verbal communication when possible, and in all cases by rapid written communication.

(K) **Packaging**

(1)(a) It shall be understood that all feedstuffs when sold in sacks shall be packed in new bags, unless otherwise agreed at time of trade; and (b) Shipments shall be in even weight packages and the weight of packages shall be net when packed, two thousand (2,000) pounds net shall constitute a ton and two thousand two hundred four and 6/10 (2,204.6) pounds shall constitute a metric tonne.

(2) Shipments in totes, and supersacks may be shipped in clean reusable containers, with net weights per container or by shipment designated.

(L) **Rail and Truck Arrival**

(1) **Rail.** Arrival of a car of feed shall be:

(a) The time of actual physical placement at the billed destination; or

(b) If not physically placed, then 48 hours after the car is constructively placed or reported to the Buyer as available for Buyer's instructions. This period shall exclude Saturdays, Sundays, or legal holidays.

(2) **Trucks.** *T*rucks shall be considered to have arrived at the time and date of unloading as evidenced by a scale ticket or dock receipt at the receiving facility. Where such evidence is not available, other routine business records may be used to show arrival time and date.

(M) **Shipment–Rail and Barge**

The term "shipment" when used in these rules shall mean that the shipper has filed shipping instructions with the authorized agent of the carrier.

(N) **Selling-Out**

Where the phrase "sell-out" is used in these rules, it shall mean an actual sale of feed of like kind and quantity on the open market, provided that when this is not feasible or would result in undue penalty to the Buyer, the Seller shall have the privilege of establishing a fair market value for the purpose of determining any loss properly chargeable to the Buyer.

(O) **Time**

When these rules require that an action be taken at or by a specified time of day, then "time" shall mean the official time provided by the U. S. Naval Observatory applicable in Chicago, Illinois, USA.

(P) **Trains**

For the purposes of these rules:

(1) a Multi is any group of cars of less than 25 for movement as one unit and under one bill of lading.

(2) a Unit Train is a group of 25 or more cars for movement as one unit under one bill of lading.

(Q) **Truckload**

If no truck size is specified in the contract, a truckload shall be 50,000 pounds net weight.

(R) **Original bill of lading**

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