Rail Mediation Rules of the National Grain and Feed Association Governing Rate Disputes

1. These rules were originally adopted by the Association of American Railroads and the National Grain and Feed Association in August 1998, and first became effective October 1, 1998. Signatory railroads commit to mediation of certain rate issues with NGFA members, unless such commitment is voluntarily withdrawn.

2. Unless the railroad Associate/Trading member has elected to withdraw from these Rail Mediation Rules as provided for in Article II, Section 3 (f) of the Bylaws, NGFA railroad Associate/Trading members consent to confidential mediation with NGFA Active or NGFA Associate/Trading members who are rail users when a dispute arises regarding the following issues involving the rail transportation of agricultural commodities designated by the Standard Transportation Commodity Code (STCC) definitions referenced in Section 2(c) of the Rail Arbitration Rules of the National Grain and Feed Association:

   a) a dispute involving an allegation of unreasonable discrimination by a rail carrier as to rates charged a rail shipper or receiver for rail transportation;

   b) a dispute involving an allegation that the switching rates, rules or practices of carriers unreasonably bar access of a rail shipper or receiver to markets.

3. The following shall apply to all mediations conducted pursuant to this agreement:

   a) The mediation and any statements made in the mediation process shall be treated as confidential;

   b) All statements made in such a mediation are privileged against use in any other proceeding relating to the dispute, even in cross-examination;

   c) Notes taken by any person at the mediation must be destroyed at the conclusion of the mediation, except for the notes of any final agreement reached by the parties;

   d) Any person(s) serving as a mediator will not be called as a witness or be otherwise involved in any ongoing arbitration or litigation, should the mediation not result in a settlement.

4. **Procedure for Initiating Mediation**: A NGFA Active or Associate/Trading member may initiate a request for mediation on one or more of the issues set forth above by filing a request with the NGFA Secretary. Mediation shall mean an informal, nonbinding conference or conferences between the parties in which a mediator will seek to guide the parties to a resolution of the dispute.

5. **Selection of Mediators:** The parties to a mediation may select any mutually agreeable panel member from the list of mediators maintained by NGFA. If the parties cannot agree or have no particular choice of a mediator, then the names and resumes of three (3) available mediators shall be sent to each of the parties, each of whom may strike up to two (2) names from the list. If more than one (1) name remains after each party acts, then the NGFA Secretary shall select the mediator from the remaining names.

6. **Duration of Mediation**: The mediation process shall continue until the case is resolved or the mediator makes a finding that there is no possibility of settlement through mediation or either party chooses not to continue further.

7. **Costs of Mediation**: The party requesting mediation shall pay a fee of $500 to the National Grain and Feed Association, which shall accompany the request to mediate. Thereafter, each party shall pay their own expenses plus one-half (1/2) of the expenses of the mediation including the mediator's fees. The mediator selected for the mediation shall disclose the basis for calculating his/her fees and expenses upon request by the NGFA Secretary or any party to a mediation.

8. **Limitations of Actions**: Except as otherwise agreed by the parties, the commencement of a mediation under these rules shall not be deemed to toll the statute of limitations as to the claims being mediated.

9. **Term of Agreement:** This agreement is effective for all mediation requests filed on or after October 1, 1998, for those carriers who have voluntarily agreed. A current list of railroad signatories (as of November 1, 2002) is shown below. This agreement shall continue in effect until terminated by the voluntary withdrawal of individual carriers. Railroads may withdraw from this agreement by giving ninety (90) days notice of such withdrawal. Such withdrawal shall become effective ninety (90) days after receipt by NGFA. The following railroads are signatory to the agreement as of November 1, 2002.

Burlington Northern Santa Fe Railway Co.
Canadian National-Illinois Central Railroads
Iowa Interstate Ltd.
Kansas City Southern Railway
Norfolk Southern Corp.
Ohio Central Railroad System
Red River Valley & Western Railroad
Union Pacific Railroad
WATCO Transportation Services