



# National Grain and Feed Association

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Minutes

## NGFA BOARD OF DIRECTORS

*Grand Hyatt Seattle  
Seattle, Washington*

*September 18, 2023*

Presiding: Greg Beck NGFA Chairman
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NGFA Chair Greg Beck called the meeting to order at approximately 9:00 a.m. Directors attending were Augusto Bassanini, Gary Beachner, Jeff Bechard, Chris Boerm, JoAnn Brouillette, Wyatt Brummer, Kayla Burkhart, Bo DeLong, Scott Docherty, Allen Douglass, Chris Faust, Tom Fernandes, Bill Free, Gary Gantz, Robert Geers, Kevin Gray, Kim Hawks, Mark Heil, Beau Hepler, Roger Hugenberg, Dennis Inman, Paul Katovich, Jason Klootwyk, Stu Letcher, Kellie Melton, Brad Morrison, Dan Mostad, Randal Olstad, Scot Ortman, Shay Rambur, Brian Schouvieller, Mike Seyfert, Kyle Shermock, Benjamin Smith, Mike Tate, Andrew Utterback, Sheryl Wallace, Tom Wapp, Eric Wilkey and Jeff Wilson.

Non-director committee chairs attending were MJ Anderson (Risk Management), Gary Devlin (Rail Shipper/Receiver), Nick Friant (Grain Grades and Weights), Joe Kapraun (International Trade & Ag Policy) and Jessica Stephan (Waterborne Commerce).

NGFA staff attending were Charlie Delacruz, Dave Fairfield, Max Fisher, Sarah Gonzalez, Rebecca Grubbs, Mary Hitchcock, Todd Kemp, Jess McCluer and Stephanie See.

### **Antitrust**

Charlie Delacruz reminded the Board of the antitrust policy that applies to NGFA meetings.

### **Minutes**

*A motion passed unanimously to approve minutes of the Board meeting on March 23, 2023.*

### **Committees Task Force**

Eric Wilkey and Jess McCluer presented the Committee Structure Task Force's final report and recommendations to the Board [*copy of Task Force report attached*]. A detailed presentation and thorough discussion ensued.

## **Rules and Bylaws Amendments**

Charlie Delacruz presented five sets of amendments to various rules and bylaws for the Board's approval [*copy of the complete text of the amendments attached*]:

- 1) Degenderizing of the Trade Rules: The Trade Rules Committee recommended amendments to remove gender-specific references (i.e., he/him/his) that involve each subset of the Trade Rules.
- 2) The Secondary Rail Freight Trading Rules Task Force and Trade Rules Committee concluded references to CBOT "open outcry" sessions and "normal" and "full" versus "partial" business days and sessions were outdated, and Rules 6 and 12 be consistent with other rules provisions.
- 3) Based upon a subgroup assigned to consider increasing the pre-occurrence damages cap for Rail Arbitration cases, the Rail Arbitration Rules Committee recommended increasing the cap from \$400,000 to \$600,000.
- 4) NGFA Bylaws: To clarify a) directors and officers may be elected electronically and apart from the annual business meeting; and b) the meeting for its other purposes may be conducted virtually – amendments to NGFA's Bylaws were proposed at recommendation of legal counsel.
- 5) NGFDS Bylaws: NGFDS (the affiliate that administers the BDT platform) voted to amend its bylaws: a) to align the terms for its directors and officers; and b) to allow for a quorum of 1/3 for its meetings (at recommendation of legal counsel). NGFDS Bylaws provide that the NGFA Board is also to approve amendments to NGFDS Bylaws.

*Motions passed unanimously to approve each of the amendments as submitted.*

## **Financials**

Max Fisher presented on NGFA's finances. He reported as of mid-year that NGFA has a net income of \$1,149,011, which can be attributed to keeping costs to less than budgeted levels, experiencing higher than expected arbitration income, and realizing higher membership dues. Todd Kemp discussed implementation of the new dues policy.

## **Management Update**

The Board went into an executive session, and Mike Seyfert reported on NGFA management-related topics, including a recently undertaken review following questions that just surfaced relating to how NGFA's 401(K) plan has been administered; and plans under consideration for restructuring of NGFA's operations and staff.

## **Foundation**

Brian Schouvieller, National Grain and Feed Foundation Chair, discussed the Foundation's financials and fundraising goals. Mr. Schouvieller focused upon initiatives currently underway that include funding of scholarships for university students in the field of agriculture through MANRRS (Minorities in Agriculture, Natural Resources and Related Sciences); support for the Animal Ag Alliance; and the Purdue University dust explosion study. Mr. Schouvieller also

advised of an initiative under review to assist with fundraising that involved NGFA matching donated funds.

### **Recess**

*The Board recessed for lunch at 12:11 p.m., and it reconvened at 1:06 p.m.*

### **Committees Task Force (cont.)**

The Board was asked about any further thoughts or questions related to the Committees Task Force report discussed earlier. None were presented.

*A motion passed unanimously for approval of the recommendations in the report of the task force.*

### **Farm Bill**

Stephanie See reported on efforts to develop and execute a strategy to achieve NGFA's priorities related to the Farm Bill, which include reducing the amount of prime farmland in the Conservation Reserve Program, increasing funding for market access and foreign market development programs, and strengthening crop insurance as a risk management tool for farmers. Ms. See stated there is speculation the Farm Bill could be completed anytime between the end of this year and the end of 2024.

### **Snake River**

Anthony Pena, Government Relations Manager for Pacific Northwest Waterways Association gave a presentation on the activities of his association and issues in general impacting the Snake River.

### **PFI Proposal**

Dave Fairfield stated the Pet Food Institute (PFI) in April announced an initiative to federalize all regulatory oversight of dog and cat food products, including ingredients used to make such products, due to inconsistencies in regulatory oversight performed by individual states. The initiative has the potential to negatively impact animal feed because the existing regulatory framework for pet food and animal feed is closely intertwined. PFI has agreed to collaborate with NGFA and other groups to explore improvements for existing regulatory oversight.

### **Rail**

Rail Shipper/Receiver Committee Chair Gary Devlin and Max Fisher provided an overview of the newly proposed reciprocal switching rule at the Surface Transportation Board; the rail safety legislation being considered in Congress; and issues involving certain rail carriers shortening the timeline for requests and filing of claims by shippers related to rail tariff overcharges.

### **Biotech Wheat and Soybeans**

Mr. McCluer stated NGFA met with representatives from the Argentina-based Bioceres Crop Technology Company to discuss the global regulatory status of the drought-tolerant HB4® wheat and soybeans in April 2023. He advised there has been little change since the information highlighted in the September 2022 Board report other than Bioceres confirmed it formally

submitted an application to USDA for approval of commercialization of the biotech wheat in the U.S., and Bioceres is in the process of responding to USDA's questions about the data in the application.

### **OSHA**

Mr. McCluer updated the Board on the potential impacts of OSHA's heat injury and illness prevention program in indoor and outdoor settings standards being considered by the Small Business Advocacy Review Panel (SBAR) under the Small Business Regulatory Enforcement Fairness Act. He highlighted the points raised by the NGFA representative during the SBAR session on September 12, specifically that a one-size fits all approach is not feasible.

### **FGIS User Fees**

Mr. McCluer and Nick Friant, Grain Grades and Weights Committee Chair, reported on plans by the Federal Grain Inspection Service to increase fees for inspection and weighing services. Because exports declined this year, the agency drew from its reserve fund to cover expenses, and it projects a deficit by the end of the fiscal year. Based upon discussions with the Executive Committee, Mr. McCluer presented the Board with recommendations that NGFA request Commodity Credit Corporation assist the agency in shoring up its reserve fund, and that NGFA conduct a study to determine if U.S. exports are at a competitive disadvantage due to increased costs for inspection and weighing services.

### **Other Topics**

An open discussion of topics by the Board members and committee chairs ensued, including challenges involving availability and shrinking in the insurance markets, labor and employment laws, technological platform innovations, NGFA's relationships with other trade groups, the non-connected PAC, trade promotion and US export competitiveness.

### **Adjournment**

*No other business was brought before the Board, and a motion passed unanimously to adjourn the meeting at 5:10PM.*

Respectfully submitted:

Charlie Delacruz  
NGFA Secretary

Approved:

Greg Beck  
NGFA Chairman



# National Grain and Feed Association

## TRANSFORMING AMERICA'S HARVEST™

### National Grain and Feed Association Committee Structure Task Force Final Report – August 1, 2023

#### Overview

In April 2023, the National Grain and Feed Association initiated a process to evaluate and make recommendations to its Board of Directors for the Association's committee structure. A Committee Structure Task Force of ten industry leaders was convened. The Task Force (appendix one) was chaired by Eric Wilkey and supported by Jess McCluer as the NGFA staff lead. Roots and Legacies Consulting, a third-party firm, was contracted to facilitate stakeholder engagement and guide the Task Force in the development of recommendations.

The Task Force utilized stakeholder engagement to inform their recommendations. A survey was distributed to members and individual and group interviews were conducted to understand the perspectives of members and review peer models.

- 10 question electronic survey was distributed to membership
- Survey was available for two weeks
- 6,151 members invited, including the primary point of contact at all member companies, committee members, and other stakeholders such as former committee members, former Chairmen and NGFA staff
- 215 respondents
- 13 individual and group interviews with 36 participants
- Interviews were representative of membership with attention to size of company, geography, and levels of experience with NGFA committees

The Task Force conducted virtual meetings to launch the initiative. An in-person meeting was held in Overland Park, Kansas on June 14, 2023. During the in-person meeting, the Task Force reviewed stakeholder input collected through the survey and interviews. A brief presentation on building and managing effective committees provided a foundation for best management practices.

There was resounding consensus that the NGFA committee structure is a vital part of the Association. The Task Force identified many aspects of the current structure that are effective and support high performing committees. There was also agreement that a thorough evaluation of the committee structure in the spirit of continuous improvement was timely.

A preliminary report was presented to the NGFA Executive Committee on June 20, 2023. A virtual meeting was held with Executive Committee members not in attendance. Executive Committee members provided feedback on the recommendations and rationale. The Task Force reconvened in sub-groups for virtual meetings to discuss supporting implementation. The entire Task Force met on July 27, 2023 to discuss feedback on the preliminary report and further refine the recommendations.



## Committee Structure Recommendations

The following recommendations were developed by the NGFA Committee Structure Task Force and are respectfully submitted to the NGFA Board of Directors.

### Recommendation 1

#### **Maintain the following committees:**

- Trade Rules
- Arbitration and Appeals
- Grain Grades and Weights
- Foundation Trustees
- Legal Council
- Rail Arbitration
- Risk Management
- Safety, Health and Environmental

### Recommendation 2

#### **Establish Sustainability as a committee.**

Rationale: The Sustainability Task Force provided a report to support establishing a committee. Sustainability/ESG is an industry interest that will continue. NGFA serves members by providing leadership in this area. Committee members will help elevate the NGFA's ongoing commitment to sustainability to NGFA members and stakeholders.

### Recommendation 3

**Establish a committee focused on Feed, combining Feed Legislative and Regulatory Affairs with Feed Manufacturing and Technology.** Subcommittee areas of feed legislative and regulatory affairs and feed manufacturing and technology.

Rationale: This structure supports efficiency in reporting on shared issues and maintains the freedom to work in sub-committees with deep expertise in specialty areas. The subcommittees provide an opportunity to maintain industry leadership in feed legislative and regulatory affairs and manufacturing and technology areas.

The Task Force believes this approach will not diminish the effectiveness of the NGFA in representing member interests. Stakeholder feedback collected through the survey and interviews aligns with the recommendation to combine feed committees. Establishing an Ag Policy and Legislative Affairs Committee (recommendation 6) supports collaboration and expanded opportunities for the Feed Legislative and Regulatory Affairs Subcommittee.

This model is similar to the structure of the Trade Rules committee and specialty areas.



# National Grain and Feed Association

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## Recommendation 4

**Rename the Country Elevator Committee to better reflect the current scope and breadth.**

Rationale: The Country Elevator Committee has an important role. A new name that encompasses aspects of grain, oilseed and feed handling and origination, trading, operations, and NGFA members' connection to farmers better communicates the value to members.

## Recommendation 5

**Establish a Trade and Crop Technology Committee.** Reposition committee work assigned to International Trade/Ag Policy and Crop Technology committees.

Rationale: Removing "international" from the title aligns with today's industry. There are dependencies between crop technology and trade.

## Recommendation 6

**Establish an Ag Policy and Legislative Affairs committee.** Reposition committee work assigned to International Trade/Ag Policy and Crop Technology committees.

Rationale: An Ag Policy and Legislative Affairs committee emphasizes the importance of NGFA advocacy efforts. This structure supports collaboration across committees on regulatory and legislative issues. This committee can aggregate the work of other committees to provide coordinated action.

## Recommendation 7

**Establish a Transportation & Logistics committee with subcommittees.** Subcommittee areas of Rail Shipper/Receiver, Motor Carrier, and Waterborne.

Rationale: This structure supports efficiency in reporting on shared issues and maintains the freedom to work in sub-committees with deep expertise in specialty areas. The subcommittees provide an opportunity to maintain industry leadership in rail, waterborne commerce and motor carriers modes of transportation. The Task Force believes this approach will not diminish the effectiveness of the NGFA in representing member interests. Stakeholder feedback collected through the survey and interviews aligns with the recommendation to combine transportation committees.

The proposed committee structure is similar to the approach of member companies to coordinate transportation modes and logistics management. Further, this model is similar to the structure of the Trade Rules committee and specialty areas.

## Recommendation 8

**Retire the Finance and Administration committee.**

Rationale: As the industry has evolved, the purpose of this committee is less relevant to members.



# National Grain and Feed Association

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## Recommendation 9

### **Establish a Communications and Marketing & Membership committee.**

Rationale: The Task Force recognized the need for a committee focused on communications and marketing and membership. The proposed committee will:

- serve as a voice for members,
- support ongoing, high-quality marketing of the NGFA to members and other stakeholders,
- provide input on strategies to effectively refine the NGFA brand and promote member benefits, programs, and services using diverse communications channels,
- encourage a growing membership base by identifying prospective members and recommending recruitment strategies, and
- advise on the development of education and outreach programs and other member engagement initiatives.

Committee membership is recommended to include a range of experience levels and be inclusive of communications and marketing professionals from member companies.

## Recommendation 10

### **Clarify the purpose of each committee.**

Rationale: Committee effectiveness will improve by clarifying the purpose of each committee and aligning NGFA Board of Directors, committee chairs, committee members, members, and staff. Clarity of purpose will also support information and outreach efforts to increase member awareness. The Task Force has discussed and created a preliminary draft of committee purpose statements to support implementation.

## Recommendation 11

### **Develop guidance documents for committee chairs, staff liaisons, and committee members.**

Rationale: Clear and regularly maintained guidance documents support association vitality and continuity/succession planning. Risk associated with staff turnover and committee chair and member attrition can be mitigated with documentation. Guidance documents, or “play books,” also support establishing expectations and holding members and staff accountable. The Task Force has discussed and created a preliminary draft guidance document to support implementation.

## Recommendation 12

### **Reinforce the concept of continuous improvement with annual self-evaluation reports for each committee.**

Rationale: Require an annual self-evaluation report from each committee with a short, focused set of questions to measure relevancy and confirm purpose. The Board Chair can use this information to inform any future adjustments to committee structure.





# National Grain and Feed Association

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## Recommendation 13

### **Create a communications and marketing plan for NGFA committees.**

Rationale: Member survey and interview feedback revealed opportunities for increasing awareness of committee purpose, committee work on industry issues, and member opportunities for involvement. The Task Force recommends the following for consideration.

1. Create energy and excitement around the committee process; lean into the sentiment of the “committee structure is the heart and soul” of NGFA; appeal to members’ interest in service
2. Enhance the information available on the website to clarify committee purpose, include information on how to become involved, add details to support transparency in qualifications, term limits and committee size limits
3. Place committee information in a more prominent location on the website (i.e., homepage banner)
4. Feature committee work in communications beyond informing of hot topics
5. Encourage committee chairs and staff liaisons to share content for social media with NGFA communications team
6. Provide member only access to meeting summaries, information about joining meetings, and committee activity, as appropriate
7. Create a “Committee 101” training to inform members
8. Consider ways to more effectively connect the Board of Directors to committee work
9. Record the stories of committee chairs and members to celebrate the history of NGFA and provide context for future work

## Recommendation 14

### **Encourage increased outreach to Feed industry representatives for participation in all committees.**

Rationale: The Task Force recognizes the value of professional in the Feed industry and acknowledges industry issues that impact grain, oilseed, and feed sectors. The Task Force believes there is opportunity to strengthen conversations with additional Feed representations across committees.

## Recommendation 15

### **Review and enhance the CAP application process.**

Rationale: The CAP program is a highly valued opportunity for member development and is directly tied to the committee structure. Adjustments to the committee structure support a review of the CAP application process to ensure alignment. The Task Force also supports a review of the CAP program as it has evolved into much more than committee apprenticeship.

## Recommendation 16

### **Formalize more frequent review and approval of committee appointments by the Board Chair.**

Rationale: Committees experience attrition through the year. An annual review process creates gaps in representation.



# National Grain and Feed Association

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## Recommendation 17

### **Implement a simple, but robust committee membership application process.**

Rationale: A process to collect interest for committee membership provides access and transparency for members. Committee chairs and staff liaisons have access to a pool of interested members and have information to support decision making. An application for committee membership aligns with the application process in place for CAPs.

## Recommendation 18

### **Clarify associate member participation in committees, as appropriate.**

Rationale: Associate members bring valuable expertise to committee work, when aligned with the work of the committee and given parameters for participation. The Task Force supports more discussion about what parameters are necessary and appropriate by committee.



# National Grain and Feed Association

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## Appendix One: Task Force Membership

**Eric Wilkey, Chair**  
Arizona Grain, Inc.

**Augusto Bassanini**  
UGC

**Matt Frederking**  
Mid-America Pet Food

**Nick Friant**  
Cargill

**Emily Gonderinger**  
Viserion

**Jason Klootwyk**  
Agtegra Cooperative

**Dennis Inman**  
Grain, Central Farm Service

**Ron Seeber**  
Kansas Grain and Feed Association

**Jessica Stephan**  
Bunge

**Jess McCluer, NGFA Staff Lead**  
National Grain & Feed Association



ATTACHMENT 2

## NGFA Board of Directors – September 2023

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The following amendments to various rules and bylaws will be proposed for approval to the NGFA Board of Directors when it meets on September 18, 2023:

### NGFA Trade Rules

#### ■ Degenderizing of the rules

The Trade Rules Committee has completed a comprehensive review of the rules to remove gender-specific terms and references (i.e., he/him/his). The committee's recommended amendments impact each subset of the Trade Rules (Grain Trade Rules, Feed Trade Rules, Barge Trade Rules, Barge Freight Trading Rules, Secondary Rail Freight Trading Rules).

#### ■ Secondary Rail Freight Trading Rules – open outcry; business day

Based upon the findings of the task force that monitors this subset of the rules, the Trade Rules Committee has concluded that references to "open outcry" sessions at the CBOT and "normal" business days and "full" sessions versus "partial" business days and sessions were outdated. The committee also recommends that Secondary Rail Freight Trading Rules 6 and 12 be consistent with the terms in Grain Trade Rule 30(A) and Feed Trade Rule 28(A).

### NGFA Rail Arbitration Rules – increasing monetary cap on claims

The Rail Arbitration Rules Committee assigned a subgroup to consider increasing the pre-occurrence damages cap for cases under the rules. The cap was last increased from \$200,000 to \$400,000 in 2013. The subgroup concluded: 1) grain and oilseed commodity prices had increased; 2) costs in general had increased (30% per several indices); 3) an adjustment was justified; 4) adjusting the cap by 30% equals about \$520,000 (thus, proposing a round number between \$550,000 and \$600,000 as a new cap). The Rail Arbitration Rules Committee agrees with these findings and proposes an increase to \$600,000.

### NGFA Bylaws – elections; annual business meeting

To clarify 1) the election of NGFA directors and officers may occur electronically and separately from the annual business meeting; and 2) the meeting for its other purposes may be conducted virtually – amendments to NGFA's Bylaws are proposed at the recommendation of legal counsel.

### NGFDS Bylaws – officer terms; quorum requirements

The Board of Directors for National Grain and Feed Digital Solutions (NGFDS) – the separate affiliate that administers the Barge Digital Transformation platform – voted to amend the NGFDS bylaws: 1) to extend the terms of the chair and vice chair to two years to align them with the terms for directors and other officers; and 2) to allow for a quorum of 1/3 for meetings of directors (at the recommendation of legal counsel to address continuing challenges in securing a quorum for meetings). The NGFDS Bylaws provide that the NGFA Board is also to approve these amendments to the NGFDS Bylaws.



ATTACHMENT 2

**PROPOSED AMENDMENTS**

*[additions underlined; deletions stricken-through]*

**NGFA Trade Rules Amendments – degenderizing of terms**

**Grain Trade Rules**

**Rule 2. Brokers ...**

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

- (1) who has possession and absolute control of merchandise shipped to ~~him~~ them to sell and collect the price (Therefore, a commission merchant to whom grain 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 ~~his~~ the principals only to the extent of ~~his~~ 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 ~~his~~ the broker's authority is liable for any resulting damages

...

**Rule 8. Sample Grain ...**

Shipments rejected because of quality discrepancies shall be compared with the sale sample by either the inspection committee or some other duly authorized or agreed committee of the market in which such rejection is made, and the finding of said committee shall be final. If the finding is in favor of the Buyer, the Buyer shall at once notify the Seller by telephone. It shall then be the duty of the Seller to make satisfactory adjustment with the Buyer not later than 12 p.m. of the following business day. If not adjusted within this time frame, the shipment shall be subject to the order of the Seller and the Buyer shall buy-in for the account of the Seller, cancel, or extend the defaulted contract and notify the Seller of ~~his~~ the Buyer's action. ...

**Rule 12. Grades Outside of Contract Terms**

**(A) Rail Shipments ...**

**(2) Origin Grades**

Grain that is sold for delivery, origin inspection, shall be covered by an inspection certificate of the grade contracted. If the Seller wishes to apply grain that is not in accordance with the contract specifications, ~~he~~ the Seller shall notify the Buyer by rapid written communication, or by telephone confirmed by subsequent written communication. The Buyer shall immediately notify the Seller if ~~he~~ the Buyer will accept the grain and at what discount. ...

**Rule 13. Condition Guaranteed on Arrival of Rail Cars**

(A) ...

If the Buyer fails to ascertain and report the condition and official grade as provided above, ~~he~~ the Buyer shall waive all rights under the guarantee for that portion of the contract. Diversion of the shipment by the Buyer to a point beyond the original destination shall constitute an acceptance of the grain and a waiver of the guarantee. ...

(C) ...

If the Buyer is unable to unload, recondition and salvage the grain as requested by the Seller, ~~he~~ the Buyer shall immediately notify the Seller of this fact. The Seller shall then dispose of the shipment. The Buyer shall then elect either to cancel the affected portion of the contract or request a replacement shipment. ...

**Rule 15. Rail Weight Settlements ...**

(D) ...

For rail grain which is unloaded at export terminals, the unloading Buyer shall notify the original shipper or, at shipper's option, ~~his~~ the shipper's designated agent of the final unload weights by telephone or rapid written communication within two (2) business days of unload. The unloading Buyer shall send the original weight certificate or duplicate copy thereof to the original shipper or designated agent within five (5) business days of unload, accompanied by a statement covering



ATTACHMENT 2

the cost of weighing charges. The original shipper or designated agent shall make final settlement with the original weight certificate or duplicate copy. All invoices are due and payable upon presentation....

**Rule 19. Routing of Rail Grain**

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

**Rule 21. Drafts**

**(A) Margins**

If sales are made on destination terms, the Seller shall leave ample margin in ~~his~~ 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 grain 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 ~~his~~ 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 22. Payment That Is Conditioned on Presentation of Original Drafts and/or Invoices ...**

Sight drafts or invoices are subject to payment on presentation to the Buyer or ~~his~~ 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 26. Contracts Made Subject to "Embargoes," "Strikes" or "Cars" ...**

(E) It shall be the duty of the Seller to notify the Buyer by rapid written communication, or by telephone confirmed by subsequent written communication, on or before the expiration of the contract, of ~~his~~ the Seller's inability to make the shipment or delivery within the contractual specifications. If the Seller fails to notify the Buyer as above, the embargo, strike and/or car clause shall be void.

**Rule 28. Failure to Perform**

**(A) Seller's Non-Performance**

If the Seller finds ~~that he~~ the Seller will not be able to complete a contract within the contract specifications, it shall be ~~his~~ the Seller's duty at once to give notice of such fact to the Buyer by telephone confirmed by subsequent written communication. The Buyer shall then, at once elect either to: ...

If the Seller fails to notify the Buyer of ~~his~~ the Seller's inability to complete ~~his~~ the contract, as provided above, the liability of the Seller shall continue until the Buyer, by the exercise of due diligence, can determine whether the Seller has defaulted. In such case it shall then be the duty of the Buyer, after giving notice to the Seller to complete the contract, at once to: ...

**(B) Buyer's Non-Performance**

If the Buyer finds ~~that he~~ the Buyer will not be able to complete a contract within the contract specifications, it shall be ~~his~~ the Buyer's duty at once to give notice of such fact to the Seller by telephone confirmed by subsequent written communication. The Seller shall then, at once elect either to: ...

If the Buyer fails to notify the Seller of ~~his~~ the Buyer's inability to complete ~~his~~ the contract, as provided above, the liability of the Buyer shall continue until the Seller, by the exercise of due diligence, can determine whether the Buyer has defaulted. In such case it shall then be the duty of the Seller, after giving notice to the Buyer to complete the contract, at once to: ...



**ATTACHMENT 2**

**Feed Trade Rules**

**Rule 2. Brokers ...**

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

- (1) who has possession and absolute control of merchandise shipped to ~~him~~ 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 ~~his~~ the principals only to the extent of ~~his~~ 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 ~~his~~ the broker's authority is liable for any resulting damages. ...

**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 ~~he~~ the Seller furnishes bill of lading in accordance with the Buyer's instructions. ...

**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 ~~his~~ 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 17. Condition Guaranteed Upon Arrival ...**

(C) ...

If the Buyer is unable to handle as requested, it shall be ~~his~~ the Buyer's duty to notify the Seller of this fact at the time ~~he~~ 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. ...

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

(A) Default by the Seller: When the Seller finds ~~that he is~~ the Seller to be in default on the shipping schedule, and/or the contract shipping period, ~~he~~ 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 ~~he~~ the Buyer elects to exercise: ...

If the Seller fails to notify the Buyer of ~~his~~ 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 ~~he~~ the Buyer elects to exercise.

If the Seller defaults on the contract, ~~he~~ 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 ~~that he is~~ the Buyer to be in default on the shipping schedule and/or the contract shipping period, ~~he~~ 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 ~~he~~ the Seller elects to exercise: ...



ATTACHMENT 2

If the Buyer fails to notify the Seller of ~~his~~ [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 ~~he~~ [the Seller](#) elects to exercise.

If the Buyer defaults on the contract ~~he~~, [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.

**Rule 25. Drafts**

**(A) Margins**

If sales are made on destination terms, the Seller shall leave ample margin in ~~his~~ [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 ~~his~~ [the Seller's](#) draft to the proper amount. ...

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

Sight drafts or invoices are subject to payment on presentation to the Buyer or ~~his~~ [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).

**Barge Trade Rules**

**Rule 6. Weights ...**

(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 ~~his~~ [the Seller](#) and the shipper within twenty-four (24) hours, or as soon thereafter as practicable.

**Rule 12. Payment of Original Drafts and/or Invoices**

Sight drafts or invoices are subject to payment on presentation to the Buyer or ~~his~~ [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, ~~he~~ [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.

**Barge Freight Trading Rules**

**Rule 3. Brokers ...**

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

(1) who has possession and absolute control of merchandise shipped to ~~him~~ [them](#) to sell and collect the price. ...

(C) A broker has the power to bind ~~his~~ principals only to the extent of ~~his~~ [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 ~~his~~ [the broker's](#) authority is liable for any resulting damages. ...





ATTACHMENT 2

**Rule 10. Release Instructions ...**

(B) Notice of Release after Unloading:

- (1) The Consignee or ~~his~~ [the Consignee's](#) agent shall give the Barge Operator or ~~his~~ [the Barge Operator's](#) agent notice of release by telephone, confirmed to the Barge Operator in writing by the end of the next business day, when a barge is unloaded and ready to be picked up. In order to release a barge as of 0700 hours the barge must be unloaded prior to 0700 hours and notice of release be given by 1100 hours.
- (2) For Saturday, Sunday and legal holiday unloading, barges shall not be considered to be released unless:
  - (a) the Consignee or ~~his~~ [the Consignee's](#) agent gives the Barge Operator or ~~his~~ [the Barge Operator's](#) agent pre-advice on the preceding business day, or
  - (b) the Consignee or ~~his~~ [the Consignee's](#) agent contacts the Barge Operator or ~~his~~ [the Barge Operator's](#) agent by telephone on a Saturday, Sunday or legal holiday and releases the barge(s) by 1100 hours that day, confirmed to the Barge Operator in writing by the end of the next business day.

**Rule 14. Failure to Perform**

(A) **Seller's Non-Performance**

If the Seller finds ~~that he~~ [the Seller](#) will not be able to complete a contract within the contract specifications, it shall be ~~his~~ [the Seller's](#) duty at once to give notice of such fact to the Buyer by telephone confirmed by subsequent written communication. The Buyer shall then at once elect to: ...

(B) **Buyer's Non-Performance**

If the Buyer finds ~~that he~~ [the Buyer](#) will not be able to complete a contract within the contract specifications, it shall be ~~his~~ [the Buyer's](#) duty at once to give notice of such fact to the Seller by telephone confirmed by subsequent written communication. The Seller shall then at once elect to: ...

If the Buyer fails to notify the Seller of ~~his~~ [the Buyer's](#) inability to complete ~~his~~ [the](#) contract, as provided above, the liability of the Buyer shall continue until the Seller, by the exercise of due diligence, can determine whether the Buyer has defaulted. In such case it shall then be the duty of the Seller, after giving notice to the Buyer to complete the contract, at once to: ...

**Secondary Rail Freight Trading Rules**

**Rule 2. Brokers ...**

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

- (1) who has possession and absolute control of merchandise shipped to ~~him~~ [them](#) to sell and collect the price. ...
- (C) A broker has the power to bind ~~his~~ principals only to the extent of ~~his~~ [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 ~~his~~ [the broker's](#) authority is liable for any resulting damages. ...

**Rule 9. Failure to Perform**

(A) **Seller's Non-Performance**

If the Seller finds ~~that he~~ [the Seller](#) will not be able to complete a contract within the contract specifications, it shall be ~~his~~ [the Seller's](#) duty at once to give notice of such fact to the Buyer by telephone confirmed by subsequent written communication. The Buyer shall then, at once elect either to: ...

If the Seller fails to notify the Buyer of ~~his~~ [the Seller's](#) inability to complete ~~his~~ [the](#) contract, as provided above, the liability of the Seller shall continue until the Buyer, by the exercise of due diligence, can determine whether the Seller has defaulted. In such case it shall then be the duty of the Buyer, after giving notice to the Seller to complete the contract, at once to: ...

(B) **Buyer's Non-Performance**

If the Buyer finds ~~that he~~ [the Buyer](#) will not be able to complete a contract within the contract specifications, it shall be ~~his~~ [the Buyer's](#) duty at once to give notice of such fact to the Seller by telephone confirmed by subsequent written communication. The Seller shall then, at once elect either to: ...



ATTACHMENT 2

If the Buyer fails to notify the Seller of ~~his-the Buyer's~~ inability to complete ~~his-the~~ contract, as provided above, the liability of the Buyer shall continue until the Seller, by the exercise of due diligence, can determine whether the Buyer has defaulted. In such case it shall then be the duty of the Seller, after giving notice to the Buyer to complete the contract, at once to: ...

**Secondary Rail Freight Trading Rules Amendments – open outcry; business day**

**Rule 12. Definitions**

(A) Business Day

~~(1) For the purpose of these rules, a “normal 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 when the Chicago Board of Trade open outcry as a full session.~~

~~(2) A “partial business day” shall be defined as the hours from 8 a.m. to 12 p.m. in Chicago, Illinois, USA, excluding Saturday, Sunday and legal holidays when the Chicago Board of Trade open outcry has a partial session.~~

~~(3) 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.~~

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.

**Rule 6. Advice of Schedules ...**

(B) Application Process for Non-Shuttle Freight:

(1) The Buyer, by verbal communication, shall furnish car placement order information to the Seller no later than: 2 p.m.

~~(a) 2 p.m. on normal business days.~~

~~(b) 12 p.m. on partial business days.~~

~~(c) 2 p.m. on order deadline day.~~

**Rail Arbitration Rules Amendments – increasing monetary cap on claims**

**Rail Arbitration Rule 2. Matters to be Arbitrated**

(F) A party shall not be obligated to arbitrate claims seeking more than \$600,000 ~~\$400,000~~ per occurrence, exclusive of interest and legal costs. ...

**NGFA Bylaws Amendments – elections; annual business meeting**

**Article IV. Membership Meetings and Action**

**Section A. Annual Meeting:** The annual meeting of the Members of this corporation for the election and appointment of officers and directors, for a presentation on the activities and financial condition of the corporation by the President and Treasurer of the corporation, and for such other business as may properly come before the meeting, shall be held in a manner and at such place, date and time as may be determined by the corporation. ...

**Section C. Notice of Meetings:** Written notice, stating the manner, place, date, and time of the meeting shall be mailed or distributed by electronic means not less than 10 days nor more than 40 days before the date of the meeting to each Member qualified to vote. Notice of an annual meeting must include a description of any matter(s) to be considered at the meeting for which the Act requires Member approval. Notice of a special meeting must include a description of all matters for which the meeting is called.



## ATTACHMENT 2

### Article VI. Board of Directors

**Section D. Board Composition, Election, and Terms of Office:** (1) Elected Directors: Members eligible to vote shall elect 45 directors (“Elected Directors”). The term of office of Elected Directors shall be three years. An Elected Director may serve up to two consecutive terms. Thereafter, an Elected Director may be eligible for election to the Board after one year following the last term of elected service. Up to two (2) of the 45 Elected Directors may be the chief executive staff officers employed by Affiliated Association Members.

(2) Appointed Directors: Each Affiliated Association Member shall be eligible to appoint one director (“Appointed Directors”) provided that each such appointee satisfies the requirements as specified in Section C of this Article, and provided that each Affiliated Association Member meets the requirements as fixed by the Board with respect to the right to make such appointment. ~~The Affiliated Association Member shall provide notice of such appointment at least ten (10) days prior to the annual meeting of Members.~~ Each Appointed Director shall serve at the discretion of the Affiliated Association Member that appointed such Appointed Director.

**Section E. Regular Meetings:** A regular meeting of the Board shall be held following the election of the Board ~~at the annual meeting of~~ by the Members, and no additional notice of the Board meeting shall be required. The Board may designate or provide by resolution the time and place for holding other regular meetings, without additional notice.

**Section L. Vacancies:** Any vacancy occurring in the Board because of the death, resignation, or disqualification of an Elected Director, may be filled by the appointment of a new director by the Chairman for the unexpired term. Any vacancy occurring in the Board because of an increase in the number of elected directors may be filled by appointment by the Chairman; such directors so appointed shall serve until the next annual ~~election by meeting of~~ the Members. Any vacancy occurring on the Board because of the death, resignation, or disqualification of an Appointed Director shall be filled by the Affiliated Association originally appointing said Appointed Director.

### Article VII. Officers

**Section C. Appointment of Certain Officers; Terms of Office:** The President, the Secretary, and the Treasurer shall be appointed by the Board at the regular meeting of the Board following the annual ~~election of the Board by meeting of~~ the Members, and if not so appointed, then said officers shall be appointed by the Executive Committee. The Board and the Executive Committee have the right to appoint said officers for a period of more than one year but not more than three years.

### Article IX. Committees

**Section B. Arbitration Appeals Panel:** (1) ~~Within 30 days following the close of the annual meeting of the Members,~~ The Chairman of the corporation shall appoint 12 persons who are officers, partners or employees of Members eligible to arbitrate disputes before the corporation, who shall serve ~~until the date of the next annual meeting,~~ as members of the arbitration appeals panel. The Chairman of the corporation shall also appoint from this panel a permanent chairman of the arbitration appeals panel.

**Section C. Nominations Committee:** At least ten days prior to ~~the election of the Board any annual meeting of the Members,~~ the Chairman of the corporation shall appoint a Nominations Committee, whose duty it shall be to recommend to the membership ~~at the annual meeting~~ the names of persons to be elected to office. The Chairman of the corporation shall designate one individual to serve as chair of the Committee.

**Section D. Trade Rules Committee:** The Chairman of the corporation shall appoint thirteen or more persons to serve on a Trade Rules Committee: at least three as a subcommittee on feed rules, at least three as a subcommittee on grain rules, at least three as a subcommittee on barge rules, at least three as a subcommittee on barge freight trading rules, and one as a chairman. It shall be the duty of this Committee to consider the Trade Rules, and proposals for changes in or additions to such Trade Rules, and to report its recommendations to the membership ~~at the annual meeting~~ or to the Board.

### Article XVI. Amendments

**Section A:** These Bylaws, the Trade Rules and the Arbitration Rules may be amended (1) by a two-thirds vote of the Members ~~present at any annual meeting at in~~ which a quorum ~~participates is present;~~ or (2) by a two-thirds vote of the Board ~~present at a meeting at in~~ which a quorum ~~participates is present,~~ subject to ratification by two-thirds of the Members ~~present at the next annual meeting at in~~ which a quorum ~~participates is present.~~ Any amendments to be



ATTACHMENT 2

proposed to the membership at an annual meeting shall be sent in writing to each Member entitled to vote at least 30 days prior to such annual meeting.

**NGFDS Bylaws Amendments – officer terms; quorum requirements**

**Section 4.08. Quorum of Directors and Action by the Board**

Unless a greater proportion is required by law, one-third ~~a majority~~ of the Directors then in office shall constitute a quorum for the transaction of business. If a quorum is present at the commencement of a meeting, a quorum shall be deemed present throughout such proceedings. Except as otherwise provided by law or by the Articles of Incorporation or these Bylaws, the act of a majority of the Directors present at a meeting, ~~however, not less than five,~~ at which a quorum is present shall be the act of the Board.

**Section 6.02. Term and Election of Officers**

The Executive Director shall be the member of the Board employed by NGFA. The Chairman, ~~and the~~ Vice-Chairman, ~~shall be elected by the Board for one-year terms. The~~ Secretary and Treasurer shall be elected by the Board for two-year terms.