

Trade Rules Committee Report to the Board of Directors September 2024

Amendments to the Trade Rules

This year, the NGFA membership ratified amendments to the Trade Rules, which had been approved by the NGFA Board based upon recommendations of the Trade Rules Committee. These amendments related to 1) numerous provisions throughout the rules to remove gender-specific terms (i.e., he/him/his); and 2) various provisions in the Secondary Rail Freight Trading Rules to update and make them consistent with the Grain and Feed Trade Rules.

Trade Rules and Arbitration Seminar

NGFA's renowned biennial Trade Rules and Arbitration Seminar was conducted on May 8-9 in St. Louis. The program featured traditional sessions on the various subsets of the Trade Rules, arbitration, case studies and legal topics. The program also incorporated recommendations of the Trade Rules Committee, which included keeping the change from a 1-day to 1½-day event; continuing to target an audience capacity of up to 250 attendees; declining on alternative locations (beyond Kansas City and St. Louis) or timeframes (outside of early May); and moving to a downtown (rather than airport) venue. In addition to the 20 industry faculty members upon which the program relies heavily, 240 registrants attended (for many of which this was their first NGFA event). The addition of a panel of in-house member company attorneys and extra efforts to make the program as a whole even more interactive – were also very well received.

Other trade rules-related activities since the last report to the Board

■ Fertilizer trading rules

The Trade Rules Committee completed its consideration of an inquiry from an NGFA member about the potential for trading rules for fertilizer. The committee discussed whether this presented a sufficient nexus and good fit for NGFA's rules. The committee decided the next step was for NGFA's leadership to consider broader implications of expanding NGFA's reach to fertilizer. The NGFA Board was consequently informed of the issue, and the NGFA Executive Committee discussed it at length. The consensus of the Executive Committee was that the concept involved going too far outside of NGFA's "footprint," particularly given the time and resources that would be involved. When the Trade Rules Committee met subsequently, it concluded that given its own predisposition and the input received from NGFA leadership, no further consideration of the matter was warranted at this time.

■ Feed Trade Rule 19 / Grain Trade Rule 28

The committee completed its consideration of harmonizing Grain Trade Rule 28 [Failure to Perform] and Feed Trade Rule 19 [Default on the Shipping Schedule and/or the Contracting Shipping Period]. The Feed Trade Rules Subcommittee conducted an initial review of the matter

and held discussions with over 10 industry representatives participating. The subcommittee noted the material differences between the two sets of rules but further noted: 1) no issues, problems or confusion had arisen from the terms in these provisions; 2) the feed trade is different from the grain trade (e.g., commodities not on exchanges; potentially more leeway intended); and 3) the feed trade has been using and is accustomed to the language in the rules as-is. Thus, the subcommittee recommended – and the full Trade Rules Committee ultimately agreed – that no changes to the Feed Trade Rules were warranted.

■ Opening of the Mid-Mississippi

Pursuant to NGFA Barge Freight Trading Rule 18(J), the special three-person committee officially declared the opening of the Mid-Mississippi River for navigation as of 7 a.m. on March 12, after the *MV Philip M. Pfeffer* reached Dubuque at 2:27 a.m. on March 12, with at least one empty dry cargo covered barge suitable for loading. Serving on the committee are Jeff Webb, Chair (Cargill); Jamie Clendenin (Viserion) and Matt Tomayko (Ingram Barge).

■ Specially-assigned task force review

Barge Digital Transformation (BDT) platform: NGFA maintains a task force to address issues related to BDT within the structure of the Trade Rules Committee. This is the group which helped develop the platform and crafted “Best Practices” for BDT. The group is currently focused upon prioritizing new development and enhancements for the platform.

Secondary Rail Freight Trading Rules: A task force was assembled to monitor contracting and trading issues for this subset of rules following their adoption in 2007. Earlier this year, the group met with 21-member company representatives in attendance. Noting the changes implemented last year to this subset of the rules, the task force concluded – and the full Trade Rules Committee ultimately agreed – that no further changes were warranted at this time.

Containers Trading Rules: The task force that reviews the rules for issues related to container trading also met earlier this year with 9-member company representatives participating. No issues or concerns were reported, and it was noted that no major disputes or disruptions in that marketplace had surfaced since the rules were implemented. The full Trade Rules Committee agreed that no changes to the rules were needed at this time.

Future activities and rules under review

The Trade Rules Committee has already identified and begun to address new areas for review in 2024-2025, including the provisions on “failure to perform” in various subsets of the rules; “time of shipment and delivery” under the Grain Trade Rules and Secondary Rail Freight Trading Rules;” and electronic contracting as it is incorporated and provided for throughout the Trade Rules.