

Special Executive Report

S-5220

April 21, 2010

TRUCK LOAD-OUT OPTION REMOVED FROM DDG FUTURES CONTRACT SPECIFICATIONS

After working closely with Distillers' Dried Grain (DDG) expected market participants, CME Group has decided to remove truck load-out terms and conditions from the DDG futures contract, which becomes available for trading on April 26, 2010. The DDG futures contract is a rail-based contract that also has included language for truck load-outs. However, several market participants raised concerns about truck load-out values and addressing these issues would significantly increase the complexity of the contract. Being a rail-based contract, CME Group determined that the cost of increased complexity was greater than the benefit of having a truck load-out option. Consistent with other CBOT grain and oilseed contracts, both buyer and seller may agree to load-out procedures outside contract specifications and negotiate a truck load-out. However, any alternative load-out procedures outside of contract rules and are not guaranteed for performance by the exchange.

Contract changes are attached with deletions bracketed with strikethrough.

Additional information about DDGs and DDG futures is available at <http://www.cmegroup.com/ddg> or contact Rich Jelinek (Rich.Jelinek@CMEGroup.com; 312-930-2320) or Fred Seamon (Fred.Seamon@CMEGroup.com; 312-634-1587).

41109.B. Loading and Shipment of Distillers' Grains Against Distillers' Dried Grain Shipping Certificates

- (a) The operator of a shipping plant issuing Distillers' Dried Grain Shipping Certificates shall limit the number of Shipping Certificates issued to an amount not in excess of 15 times its registered total daily rate of loading plus the amount of distillers' grains in store (not limited to distillers' grains meeting minimum contract standards). All such distillers' grains in store must be stored in facilities for which the capacity has been registered and which have been inspected by the Registrar. The shipper shall register his total daily rate of loading covered hopper cars at not less than 40% nor more than 100% of his maximum 24 hour Distillers' Grain production capacity. Each plant must be regular for a minimum total daily rate of loading of 200 tons per day.
- (b) Each regular plant shall be required to complete load-out of distillers' grains against cancelled Shipping Certificates within fifteen calendar days following the date of cancellation. The date of completed load-out shall be the bill of lading date.
- (c) The shipper shall assess a premium charge of 8 cents per ton per calendar day for each day a Distillers' Dried Grain Shipping Certificate is outstanding starting the day after the date of registration by the Registrar. When rail loading orders specify shipment within fifteen calendar days, the premium charge shall continue through the business day following the receipt of loading orders. Otherwise, the premium charge shall continue through the day of rail loading. "Business days" are those on which the Exchange is open for trading Distillers' Dried Grain.
- (d) The shipper shall maintain, in the immediate vicinity of the Exchange, either an office, or a duly authorized representative or agent approved by the Exchange, where owners of Shipping Certificates may pay premium charges and file loading orders and shipping instructions.
- (e) Rail Loading Procedures
 1. The buyer requesting rail load-out will furnish written rail loading orders and shipping instructions to the shipper by the close of business on the first business day following the date of cancellation of the Shipping Certificates. The shipper is responsible for providing railcars, loading distillers' grains into the railcars, and transporting the distillers' grains to the location specified by the buyer within the contiguous United States. Each regular facility will be associated with a particular rail junction with regular facilities east of the Mississippi associated with Chicago and regular facilities west of the Mississippi associated with Council Bluffs. The buyer shall pay the shipper the public tariff rate plus any fuel surcharges for distillers' dried grains from the regular facility's associated rail junction to the buyer's destination.
 2. A regular shipper may provide product meeting specifications from another facility provided the buyer is not adversely affected with regard to timing or quality. All rules specified herein apply to all load-outs including load-outs from alternative origins. The regular shipper is responsible for load-outs and delivery consistent with these rules even when the origin is different from the regular facility.

3. The shipper is responsible for all transportation costs up to 48 hours after the constructive placement of railcars at the buyer's destination. The buyer is responsible for any unloading charges and for any demurrage charges 48 hours after constructive placement. All demurrage charges must be substantiated with a citation of car numbers loaded against cancelled Shipping Certificates with tariff demurrage rates to apply.
4. Loadings will be in bulk, and shipments will be subject to the existing freight tariff Rules and Regulations of the railroads on file with the Interstate Commerce Commission at the time of loading. The shipper is responsible for loading suitable owned or leased railcars.
5. All loading orders and shipping instructions received prior to 2:00 p.m. on a given business day shall be considered dated that day and shall be entitled to equal treatment. Orders received after 2:00 p.m. on a business day shall be considered dated the following business day.
6. When rail loading orders and shipping instructions are received by 2:00 p.m. of any given business day, the shipper will advise the owner by 10:00 a.m. the following business day of loading dates and tonnage due. Notification will be by telephone, fax or email.
7. The shipper shall load cars at the shipping plant designated in the Shipping Certificate. If it becomes impossible to load at the designated shipping plant because of an Act of God, fire, flood, wind, explosion, war, embargo, civil commotion, sabotage, law, act of government, labor difficulties or unavoidable mechanical breakdown or other force majeure, the shipper will arrange for covered hopper cars to be loaded at another regular shipping plant in conformance with the Shipping Certificate. If the aforementioned condition of impossibility prevails at a majority of regular shipping plants, then shipment may be delayed for the number of days that such impossibility prevails at a majority of regular shipping plants.
8. Rail loading orders involving one or more Shipping Certificates shall be considered as one lot. The minimum amount shipped against each loading order shall be the number of Shipping Certificates specified therein times 100 tons. A tolerance of 6 tons under or over the total may be shipped to be settled at the market value, expressed as a basis, for distillers' dried grains FOB at the facility at the time of loading of the last car of the order. Before rail cars are loaded, the taker and maker of delivery shall agree on a basis over or under the nearby futures at which overfills and underfills will be settled. On the day that the weight tolerance becomes known to both parties, the flat price settlement will be established by applying the basis to the nearby futures month settlement price on the day of loading. If the day of loading is the last trading day in the nearby futures month, the next following futures month will be used for settlement. If the day of loading is not a business day, the next following business day will be used to establish the flat price. In order to convert the agreed upon basis on the day that the grain was loaded to a basis relative to the current nearby futures month, the futures spread on the day of loading will be used, provided that, the nearby futures did not close outside of the price limits for all other futures months. In this case, the spread on the first

following business day that the nearby futures closed within the price limits applicable for all other futures months would be used.

[(h) Change of Election for Mode of Load-Out

~~The buyer may elect to load-out by truck. Truck load-out shall be entitled to equal treatment. A premium of \$7.50/ton shall be applied to all shipments of distillers' dried grains loaded-out by truck and shall be payable on the day truck loading orders are issued. Buyer is not required to pay any tariff rates to seller under truck load-out.~~

~~Truck Loading Procedures~~

- ~~1. The owner requesting truck load-out shall furnish written loading orders and shipping instructions to the shipper by the close of business on the first business day following the date of cancellation of Shipping Certificates. The owner shall supply the trucks. Open-top trucks with a minimum capacity of 20 tons must be provided. No vans or trucks with porthole loading shall be acceptable. Owner and shipper shall cooperate to ensure timely placement and loading of truck equipment.~~
- ~~2. All truck loading orders and shipping instructions received prior to 2:00 p.m. on any given business day shall be considered dated that day and shall be entitled to equal treatment. Orders received after 2:00 p.m. on a business day shall be considered dated the following business day.~~
- ~~3. When truck loading orders and shipping instructions are received by 2:00 p.m. on any given business day, the shipper will advise the owner of loading dates and tonnage due by 10:00 a.m. the next business day. Notification will be by telephone, fax or email.~~
- ~~4. The shipper shall begin loading against truck loading orders and shipping instructions on the fourth business day after their receipt. The shipper shall load at a minimum of 50 percent of the facility's daily rate of loading until loading is complete.~~
- ~~5. Truck loading shall occur during normal truck loading hours, as declared in the plant's application for regularity, and on normal business days. "Normal business days" shall be those on which the Exchange is open for trading of Distillers' Dried Grain futures.~~
- ~~6. The owner shall present his trucks for loading at the shipping plant designated in the Shipping Certificate by 12:00 noon on the scheduled loading day. If trucks arrive by 12:00 noon, the shipper shall load the same day or be subject to the penalties and procedures specified in subparagraphs (9) and (10) of this paragraph (Truck Loading Procedures). If trucks arrive after 12:00 noon, the shipper shall be under no obligation to load and the owner shall be subject to the penalties and procedures specified in subparagraphs (7) and (8) of this paragraph.~~

- ~~7. If the owner fails to present his trucks on time on the scheduled loading day, he shall be subject to a grace period until 12:00 noon the next business day and shall not be liable for a penalty up to that time. If the owner fails to present his trucks by 12:00 noon of the business day following the scheduled loading day, he shall be liable for a penalty of \$4/ton/day for all DDGs not loaded out as scheduled.~~
- ~~8. If, for any reason, the owner is unable to present his trucks for three consecutive normal business days, beginning with the originally scheduled loading day, the shipper may at his election:~~
- ~~i. Load the DDGs into rail cars for the owner and inform him of rail car numbers, or~~
 - ~~ii. Reissue a Shipping Certificate to the owner. If a Shipping Certificate is reissued, the premium charge specified in Rule 41108 shall be assessed retroactively, beginning the day after the business day following the receipt of loading orders.~~

~~In these cases the owner is liable for the penalty specified in subparagraph (7) of this paragraph, if any, for two business days. The truck loading premium specified in paragraph (h) of this Rule shall be credited against any penalties due or refunded in full if there are no penalties due. If shipper elects either of these options he must promptly notify the owner.~~

- ~~9. If the shipper fails to load the owner's trucks by 12:00 midnight on the scheduled loading day he shall be subject to a grace period until the next business day and shall not be subject to a penalty up to that time. If the shipper fails to load the owner's truck by 12:00 midnight of the business day following the scheduled loading day, he shall be liable for a penalty of \$4/ton/day for all DDGs not loaded out as scheduled.~~
- ~~10. If, for any reason, the shipper is unable to load the owner's trucks for three consecutive normal business days, beginning with the originally scheduled loading day, the shipper shall, with the owner's consent, make the DDGs available for truck load-out on the third day at another regular plant, in conformance with the Shipping Certificate, and will compensate the owner for any transportation loss resulting from the change in the location of the shipping plant.~~
- ~~11. A tolerance of five tons over the total truck shipment may be loaded and settled at the market price at the time the last truck is loaded.]~~