

**National Shipper Advisory Committee
Committee Meeting
March 9, 2022
1:00-3:00 pm Eastern Time**

Minutes

Introduction and Determination of Quorum

Dylan Richmond, the NSAC's Designated Federal Officer (DFO), opened the meeting, announced a quorum had been reached, and the meeting could proceed.

Remarks from NSAC Leadership

Michael Symonanis, NSAC Vice Chair, encouraged the public to review the work of the Committee and Subcommittees, and to submit comments or recommendations. This is to ensure the Committee's recommendations reflect various perspectives across industries, regions, and geographies. The public can submit comments to the NSAC at nsac@fmc.gov.

Update from the Data Sharing and Visibility Subcommittee

The Data Sharing and Visibility subcommittee chair, Gabriel Rodriguez, stated that the group had conducted three exploratory meetings to date. The first of these was held to learn about the Port of Los Angeles's port optimizer to discuss how this system provides visibility to their customers and what data they currently collect. Members hoped to uncover ways that this optimizer could be adopted by other stakeholders, with elements perhaps being able to inform a national portal. Members also met to discuss how to utilize digital technology for tracking cargo and how to develop national standards on industry metrics and definitions.

Going forward, the subcommittee will work to develop recommendations that will increase data sharing and visibility across the supply chain. These recommendations will focus on 1) reinforcing the Federal Maritime Commission's (FMC) authority to ensure a reliable ocean transport system and prevent an unreasonable increase in transport service costs and 2) considering the establishment of a national port authority or supply chain authority to ensure the creation of national data standards and integrity. The subcommittee chair underscored they are not looking for a specific solution, but instead are focusing on ensuring all necessary data points will be encompassed in any solution(s) that may be produced from their efforts.

Comments on the above were solicited from all Committee members and the public present at the meeting. Members expressed their appreciation of the subcommittee's research into a range of methods and tools that can be utilized to meet their objectives. The Committee Vice Chair suggested the subcommittee review discussions being held outside the FMC and NSAC to prevent duplication of efforts. The NSAC Chair also expressed the need to avoid any of the Committee's recommendations being contradictory.

One member asked the subcommittee to identify any potential quick wins. The subcommittee

chair suggested the development of a national data portal as such an opportunity given significant interest from the White House and other parties seeking a working model by year end.

Update from the Fees and Surcharges Subcommittee

Rich Roche, chair of the Fees and Surcharges subcommittee, stated the subcommittee's first task was to align their interests with that of the ongoing Advanced Notice of Proposed Rulemaking (ANPRM) at the FMC regarding detention and demurrage. At their first meeting, members discussed rail storage issues and what government agency holds jurisdiction when intermodal cargo is with a railroad (or other intermodal service provider) yet on a bill of lading with an ocean carrier. Some members expressed a belief that this could fall under the FMC's purview given other government agencies' denial of having such authority. Other issues discussed included terminal dwell fees and the difficult nature of defining the term "Merchant" when determining the party (or parties) responsible for unpaid invoices.

In their most recent meeting, the subcommittee worked to develop a recommendation that the FMC make a formal statement on their jurisdiction over rail transportation for intermodal cargo, when the rail move is contracted by the ocean carrier. Other issues discussed included: dwell fees from ports and terminals, miscellaneous port fees, government holds, ambiguous language used across the industry to define fees, frequently changing vessel schedules, merchant clauses, and IPI box rules. The subcommittee chair stated merchant clauses can potentially be abused and parties may be billed for fees for which they should not be held financially responsible. This issue is one the subcommittee will continue to define and clarify.

The subcommittee chair reiterated support of detention and demurrage charges when they serve to incentivize the fluid movement of cargo but stated these charges can be abused and applied in situations where they clearly fail in this regard. A similar stance was adopted toward government holds on cargo, with the subcommittee chair stating they have a punitive element to them, and the risk should be shared by all parties given their random nature.

Summary of Written Comments from the Public

The DFO stated there are no comments to report at present and encouraged members of public to reach out and provide comments or suggestions to the Committee via nsac@fmc.gov.

Closing Remarks

The NSAC Chair requested to hear any objection to forming a third subcommittee to discuss "box rules" (informal method railways and carriers coordinate with each other at railheads) per Rich's request. No objections made were voiced, but the Chair stated this matter would be brought up again in a subsequent meeting following further internal discussion.

A member stated they would like to ensure adequate communication between the two established subcommittees as data visibility, availability, and standardization is important in ensuring resolution of issues surrounding detention and demurrage charges. The Chair and Vice Chair

supported this notion and stated they have set up the committees in such a way to ensure their objectives dovetail and their work is aligned.

It was announced that the next full Committee meeting would be in-person in Washington, DC, in April.

Adjournment

Committee Member Attendees:

Brian Bumpass – NSAC Chair
Michael Symonanis – NSAC Vice Chair
Rich Roche – Fees and Surcharges Subcommittee Chair
Gabriel Rodriguez – Data Sharing and Visibility Subcommittee Chair
Michael Brock
Rick DiMaio
Scott Fremont
Steve Hughes
Alison Leavitt
Peter Mento
Debb Minskey
Ken O’Brien
Adnan Qadri
Colin Yankee
Justin Cauley
Bob Connor
Chris Crutchfield
Sean Healy
Alexis Jacobson
Fernando Lagonell
Dan Miller
Jen Morrissey
Dylan Richmond – Designated Federal Officer, Federal Maritime Commission

Signed:

Brian Bumpass
Chair
National Shipper Advisory Committee

August 8, 2022