

**National Shipper Advisory Committee
Committee Meeting
Washington, DC
November 16, 2023
1:00 pm Eastern Time**

Minutes

Introduction and Determination of Quorum

Dylan Richmond, the Designated Federal Officer (DFO) for the NSAC, called the meeting to order and gave noticed that the meeting is being recorded. Items on the agenda today will be discussed, then the meeting will move to public comment. He reminded those in attendance that meeting minutes are published per the requirements of FACA and the recording of the meeting will be made available after the meeting. The NSAC members were reminded that antitrust laws apply to them and that they cannot speak on behalf of the committee, the FMC, or the federal government outside of an official meeting of the NSAC. The DFO confirmed a quorum.

Remarks from NSAC Leadership

Michael Symonanis, the NSAC Chair, thanked everyone for joining the meeting and for the intervening work since the last meeting. He highlighted the eight high-impact recommendations affecting the supply chain over the last two years and that the NSAC is waiting for feedback on some items. Looking ahead there is opportunity to think bigger. Although the NSAC is comprised of 24 members of the shipping public it is trying to engage with a greater number of shippers for better and broader dialogue within the system.

Kenneth O'Brien, NSAC Vice Chair, considered the impact of the NSAC and stated that the supply chain is no more resilient than it was three years ago. He said the NSAC has tried to deal with tactics, such as demurrage issues; however, it needs to start to think about systemic problems, such as with ports and railroads. If the overall system is broken the rest is window dressing. In their last year current members should try to figure out what the system problems are and to drive the conversation towards helping resolve those issues.

Maritime Transportation Data Initiative Update

Federal Maritime Commissioner, Carl Bentzel, thanked members for their work. In his opening statement he acknowledged the periodic major meltdowns in ocean shipping. He stated his belief that this will become more frequent due to the greater volume and increasing utilization of containers, the use of larger vessels, general congestion, and the lack of space to expand at many ports. Any disruption to the system, whether it be a railroad issue, insufficient chassis, or geopolitical issues have the potential to create a cascading effect throughout the supply chain. The industry needs to come up with policies that will help ameliorate the problems even though they may not resolve the problem completely.

To this end, Commissioner Bentzel stated the need for better information on cargo system. The FMC regulates \$6 trillion of economic activity and steps to strengthen resiliency are needed. Another impact from the problems with the supply chain is inflation, to which port congestion was a contributor according to him. Commissioner Bentzel also reiterated his belief that the FMC has jurisdiction over intermodal as it pertains to through bills of lading. For further improvement to the system, several key pieces of information need to be known and shared with the relevant supply chain actors:

- Real time schedules provided by the carriers.
- Arrival/Departure times for trains.
- When intermodal freight is going in or out.
- When ships are repositioned in the port complex.
- When there is loading or unloading being conducted at each berth.
- When cargo is available or is on government hold.

The Maritime Transportation Data Initiative has released the first set of questions to receive feedback from the public via a Request for Information (RFI) and responses have begun to come in. Commissioner Bentzel expects a second set of questions to be released soon. He noted that it is key to ensure that cargo information remains confidential, while also harmonizing the terminology. Furthermore, he emphasized his work with marine terminal operators and ocean carriers to ensure any solicited information is something that they could provide.

NSAC members engaged in a Q&A with Commissioner Bentzel following his remarks. They asked about the responses received so far from the RFI. He shared that some commenters noted a standard cutoff date of 5 days from when a carrier serves a particular shipper. Comments supported suggestions in the MTDI, although some commenters stated that setting data standards is not within the FMC's jurisdiction.

Responding to inquiries on existing data issues, Commissioner Bentzel stated that parties should not be sharing information on items they really don't know. He noted that many parties share information on cargo availability that is inaccurate. He stated that carriers have primary responsibility for data accuracy, although sometimes third parties have that responsibility. It should be the party in possession of the accurate data that should share the information on container status. The industry also needs methods to ensure third-party information is accurate. Looking to the future, Commissioner Bentzel stated he wants to make the sharing of certain data elements a requirement. He noted that he had talked to the FMC Chairman about conducting public outreach around this and hopefully would start this process next year. He noted that this process would require setting guidelines will take time, and that any regulations that may arise out of this effort would be later.

Commissioner Bentzel has spoken with the Data and Visibility Subcommittee. He noted that he is looking at cargo availability and receiving dates, which confer legal status on cargo movement. He stated that the necessary parties will have to think about whether to move some of the ideas that may improve efficiency forward.

Subcommittee Updates

Fees/Surcharges Subcommittee Discussion

The Subcommittee Chair, Rich Roche, said the team is currently in a holding pattern until the agency's demurrage and detention rulemaking is complete. Highlighting the group's past accomplishments, he stated that their subcommittee has issued four recommendations and one set of comments.

Rail storage continues to be an issue of importance to the subcommittee and for the supply chain. He noted that at least 77 trade organizations have signed a letter to Congress outlining the issues around rail storage fees being billed directly to shippers without authority.

During a brief Q&A, he noted that excess dwell fees at the ports of Los Angeles and Long Beach are still on the books and are assessed at the terminal level. Some members noted they are not currently affected by similar fees given how fluid their networks are. On the issue of service contracts, the subcommittee is not currently considering how these influence outcomes related to the incentive principle. They noted however, they are open to suggestions on this or other issues they should consider from the public.

Data/Visibility Subcommittee Discussion

The Subcommittee Chair, Gabriel Rodriguez, stated there is not much new information from the team. They continue to meet biweekly.

Chassis Subcommittee Discussion

The Subcommittee Vice Chair, Debb Minskey, stated the Subcommittee is also in a holding pattern. They are awaiting the resolution of the ongoing ATA / OCEMA lawsuit regarding chassis before continuing their work and making any recommendations. The team has had good meetings with stakeholders related to chassis issues including the FMC, General Lyons, and members at the University of New Orleans that are currently conducting a chassis study.

Data and Chassis Organizations

The NSAC invited several organizations to provide brief updates to the Committee. All presentations can be found on the NSAC webpage.

ASTM International F49 Committee

- Jeffrey Weiss, Partner, Steptoe & Johnson LLP

This organization is a data standardizer recognized by the Organization for Economic Co-operation and Development. Commissioner Bentzel is member of the committee. Members also come from academia, the private and public sectors. This committee ensures that the process is balanced among membership for balanced outcome and recs. They aim to develop common terminology and to fill in gaps in standardization efforts by summer 2024.

Digital Container Shipping Association

- Dominique Willems, Head of Public Affairs

This organization is setting standards for container shipping. They solicit comment from a wide range of stakeholders and try to avoid reinventing the wheel. Standards are made in consultation with ports, terminals, freight forwarders and others in the shipping industry. DCSA identified where their Commercial Schedules release will cover 35 of 39 data elements from the Data Subcommittee Vessel Level Data recommendations sent to FMC after the NSAC December 2022 meeting and which four are not.

North American Chassis Pool Cooperative (NACPC)

- Dave Manning, President, and CEO, talking on Memphis pool of choice.

This organization supplies chassis and is completely owned by motor carriers. They operate an interoperable pool in Memphis, with multiple contributors, and are trying to improve the interoperable pool experience. That means that chassis users can still choose the operator with whom they do business. This industry initiative aligns with the work undertaken by Commissioner Rebecca Dye that started in 2016.

NSAC Administrative Updates

The NSAC Chair stated the Committee is trying to have the 2024 meeting schedule finalized. The plan for the Q1 2024 meeting is for it to be at the TPM Conference in Long Beach, CA. The Committee will work with the DFO to arrange this session.

Public Comment Period

The floor was opened to public comment. No one in attendance made a comment during this period, and none were received prior to the meeting via email.

Closing Remarks

- Michael Symonanis, NSAC Chair
- Kenneth O'Brien, NSAC Vice Chair