

Federal Maritime Commission

National Shipper Advisory Committee

Bylaws

I. Advisory Committee's Official Designation

National Shipper Advisory Committee

II. Definitions

Committee meeting means any gathering of the National Shipper Advisory Committee ("the Committee" or NSAC) members (whether in person or electronically, such as using telecommunications or through a virtual platform), held with the approval of the Federal Maritime Commission ("the Commission" or FMC), and with the Designated Federal Officer (DFO) in attendance, for the purpose of deliberating on the matters upon which NSAC provides advice or recommendations.

Committee member means a natural person who serves by appointment or invitation on NSAC by the Commission.

III. Authority.

This statutory NSAC was established on January 1, 2021, by the *National Defense Authorization Act for Fiscal Year 2021*, Pub. L. No. 116-283, § 8604, 134 Stat. 4761, codified in 46 U.S.C. chapter 425. The Committee operates in accordance with 46 U.S.C. chapter 425; the *Federal Advisory Committee Act (FACA)*, as amended, 5 U.S.C. chapter 10; 41 C.F.R. part 102-3; Commission Order 76 (Guidelines on Federal Advisory Committees); and the Committee Charter.

All previous bylaws related to NSAC are superseded by this Committee Bylaws (this document).

IV. Objectives and Scope of Activities.

- A. As set out in 46 U.S.C. § 42502(b), the function of the Committee is to advise the Commission on policies relating to the competitiveness, reliability, integrity, and fairness of the international ocean freight delivery system.
- B. The Commission will consult the Committee on significant agency actions relating to the Committee's functions.

V. Description of Duties and Tasks

The duties of the Committee are solely advisory. The Commission is not obligated to act upon recommendations of the Committee. The Committee shall, upon request by the Commission through a task statement, provide the Commission with information, insight, perspective, and expertise relating to the competitiveness, reliability, integrity, and fairness of the international ocean freight delivery system.

VI. Membership.

A. *Representation.* The Committee shall consist of 24 members with particular expertise, knowledge, and experience in matters relating to the function of the Committee:

1. Twelve members shall represent entities who import cargo to the United States using ocean common carriers.
2. Twelve members shall represent entities who export cargo from the United States using ocean common carriers.

B. *Expertise.* Each member shall have particular expertise, knowledge, and experience in matters relating the function of the Committee.

C. *Appointments.* Each member of the Committee is appointed by and serves at the pleasure of the Commission.

1. *Solicitation.*

- a. Before appointing a member of the Committee, the Commission shall publish a notice in the FEDERAL REGISTER soliciting nominations for membership on the Committee. Self-nominations are permitted. The Commission will appoint a member only after all nominations received within the time period provided in the notice have been reviewed and considered. The Commission is not obligated to nominate any member(s) following publication of a solicitation for membership.
- b. In accordance with 46 U.S.C. § 42503(e)(2)(B), the Commission shall not seek, consider, or otherwise use information concerning the political affiliation of a nominee in making an appointment to the Committee.
- c. Applications for appointments shall be maintained by the DFO and handled in accordance with applicable laws and regulations pertaining

to FACA committees and protection of personal identifying information and the Privacy Act.

2. *Additional qualifications.*

- a. Members appointed to the Committee shall be of good character and current on all legal obligations.
- b. The Commission may require potential appointees to have passed an appropriate security background examination before appointment to the Committee.
- c. A Federal employee may not be appointed as a member of the Committee.

3. *Membership status.* Generally, Committee members will be appointed as representatives of their respective groups and not as Special Government Employees (SGEs), as defined in 18 U.S.C. § 202(a).

- a. A member of the Committee will be treated as a Special Government Employee for purposes of the committee service of the member if the member, without regard to service on the Committee, is a Special Government Employee.
- b. A member of the Committee shall not be considered an employee of the Federal Government by reason of service on the Committee, except for the purposes of 5 U.S.C. chapter 81 (Compensation for Work Injuries), 28 U.S.C. chapter 171 (Tort Claims Procedures), and any other Federal law relating to tort liability.
- c. Federally registered lobbyists, as defined in 2 U.S.C. § 1602(a), are not eligible to serve on federal advisory committees in their individual capacity. *See Revised Guidance on the Appointment of Lobbyists to Federal Advisory Committees, Boards and Commissions*, 79 Fed. Reg. 47482 (Aug. 13, 2014). The appointment of any Committee member who registers as a lobbyist after their appointment or reappointment to the Committee is automatically terminated.

4. *Terms.* The term of each Committee member will expire on December 31 of the third full year after the effective date of their appointment.

- a. In the event the Committee terminates, all appointments to the Committee automatically terminate.

- b. When the term of a Committee member ends and a successor has not been appointed, with the approval of the Commission, the member may continue to serve as a member for up to 1 additional year or until a successor is appointed, whichever is sooner.
- 5. *Chair and Vice Chair.* The Committee will elect a Chair and Vice Chair from among the Committee's members. The positions of Chair and Vice Chair constitute 2 of the total 24 members of the Committee and have full voting rights.
 - a. A person may serve as Chair or Vice Chair only if that person is a Committee member in good standing, as determined by the Commission.
 - b. The Chair and Vice Chair may not both be of the same representative class of entities. (i.e., the Chair and Vice Chair cannot both be representatives of entities who import, or both be representatives of entities who export.)
 - c. The term of office of the Chair and Vice Chair will be 3 years or the remainder of their appointment as a Committee member. A Chair/Vice Chair may continue to serve in their position until a new Chair or Vice Chair has been appointed, unless and until their appointment to the Committee expires (barring a holdover situation) or is terminated.
- 6. *Vacancies.* A vacancy on the Committee will be filled in the same manner as the original appointment, with the exception that under 46 U.S.C. § 42503(e)(8), the Commission may reappoint a member of the Committee for any term, other than the first term of the member, without soliciting, receiving, or considering nominations for such appointment.
- 7. *Compensation.* No member of the Committee shall receive compensation for service on the Committee. Committee members will not be reimbursed for travel or for expenses.

D. *Member Roles and Responsibilities.*

1. *Generally*

- a. Committee members will abide by the requirements of:

(1) 46 U.S.C. chapter 425 (National Shipper Advisory Committee); the *Federal Advisory Committee Act*, as amended (5 U.S.C. chapter 10); the *Paperwork Reduction Act* (44 U.S.C. §§ 3501–

3521); 5 CFR part 1320 (Controlling Paperwork Burdens on the Public); 41 CFR part 102-3 (Federal Management Regulation; Federal Advisory Committee Management); the Committee Charter; the Committee Bylaws (this document); and

- (2) Any additional guidance or instructions issued by the Commission.
- b. Prior to engaging in their first business as a member of the Committee, a member must provide the DFO written verification that they have received the materials in paragraph a(1) from the Commission, have reviewed them, and agree to abide by all requirements.
 - c. Membership of the Committee balances many aspects and viewpoints of the international ocean freight delivery industry; therefore, member attendance and participation at meetings is vital.
 - (1) Each Committee member is expected to adequately prepare for, attend (either in person or through electronic means approved by the DFO), and meaningfully participate at all meetings and, as applicable, subcommittee and working group meetings.
 - (2) A Committee member may not designate someone to attend in their stead, participate in discussions, or to vote.
 - d. A Committee member may not use their access to Commissioners or FMC staff as a member of NSAC for the purpose of soliciting business or otherwise seeking legal or economic advantage for themselves or others.
 - e. A Committee member must hold non-public information in confidence. A Committee member may not share or otherwise disclose any non-public information obtained in the course of their duties as a member of the Committee with any person outside of the Committee or the Commission. A Committee member may not use any non-public information obtained in the course of their duties as a member for personal gain or for that of another.
 - f. Neither the Committee nor members of the Committee have any authority to speak for the Commission or the U.S. Government.
 - g. A Committee member treated as a Special Government Employee in accordance with 46 U.S.C. § 42503(d)(2) must notify the Commission

through the DFO of any intent they have to register as a lobbyist with the Federal Government.

- h. Each Committee member must remain current on all legal obligations.
- i. A Committee member shall not commit any act which might reasonably be considered to be immoral, deceptive, scandalous, or obscene, or to injure, tarnish, damage or otherwise negatively affect the reputation of the Committee, the Federal Maritime Commission, or the Government of the United States.

2. *Chair.* The Chair:

- a. Is the Committee's designated liaison between the Committee and the Commission;
- b. Ensures Committee meetings, subcommittee meetings, and working group meetings are only held with the approval of the DFO;
- c. Submits proposed agendas for meetings of the Committee, subcommittees, and working groups to the DFO for approval at least forty (40) calendar days in advance of a meeting. Committee agendas shall comply with the requirements of Article VIII, paragraph C of these Bylaws;
- d. Presides over Committee meetings:
 - (1) Ensures that such Committee meetings are orderly, efficiently, and effectively conducted;
 - (2) Ensures Committee meetings are conducted in accordance with the Committee Charter and Bylaws;
 - (3) Ensures adherence to the approved agenda;
- e. Ensures the effective operation of subcommittees and working groups, including coordinating the activities of such groups to avoid duplication of effort and conflict in their activities;
- f. Ensures all subcommittee reports, advice, and recommendations transmitted to the Committee are thoroughly vetted by the Committee and agreed to by majority vote of the Committee before being

transmitted to the Commission. Such recommendations shall be transmitted to the Commission as recommendations of the Committee and not as a recommendation of a subcommittee or working group; and

g. After a Committee meeting:

(1) Prepares and transmits all Committee recommendations to the DFO in accordance with Article IX of these Bylaws; and

(2) Certifies the minutes of each Committee meeting within 90 calendar days.

3. *Vice Chair.* The Vice Chair acts as the Chair in the absence or incapacity of the Chair or in the event of a vacancy in the office of the Chair.

E. *Member Termination.*

1. Each Committee member serves at the pleasure of the Commission and a member's appointment may be terminated at any time, for any reason, without advance notice to the member.
2. Membership terminates automatically upon a change in employment. Members must notify the DFO within 10 business days of any change in employment.
3. The DFO or any individual Commissioner may recommend to the Commission the removal and replacement of any Committee member. Dismissal may be recommended for reasons such as, but not limited to:
 - a. Missing two consecutive meetings (either full committee meetings, subcommittee meetings, working group meetings, or a combination thereof);
 - b. Not substantively participating in the Committee's work;
 - c. Failing to work collaboratively with the Commission, the DFO, other agency staff, or other members of the Committee;
 - d. Failure to abide by the Federal Advisory Committee Act, 46 U.S.C. chapter 425, Committee charter, Committee bylaws, or instruction provided by the DFO or Commission;

- e. Registering as a lobbyist after appointment (if appointed in their individual capacity);
 - f. Any change that affects the Committee member's ability to represent the viewpoint of his or her respective membership group or otherwise affects the membership balance of the Committee as determined by the Commission;
 - g. Engaging in activities that are illegal or violate the restrictions on member activities in Article XI of these Bylaws.
4. Terminations may be made orally or in writing. If made orally, they will be followed up with a written letter of termination from the Commission within 15 business days.

VII. Subcommittees and Working Groups

A. *Establishment.* The Committee Chair may establish and disestablish subcommittees and working groups for any purpose consistent with function of the Committee. Standing subcommittees or working groups may be established with the prior approval of the Commission. Special ad hoc subcommittees and working groups shall expire after one year, unless their term is renewed with approval of the DFO for an additional period not to exceed two years for each renewal term.

B. Participants.

- 1. The Committee Chair may designate members from the Committee to serve on a subcommittee or working group. The term of service of a subcommittee member (or working group) shall be reflected in the meeting minutes.
- 2. The subcommittee or working group must be chaired by a member in good standing of the Committee. The subcommittee Chair will be responsible for organizing the subcommittee (or working group), preparing any minutes from the meetings, and for presenting the subcommittee's or working group's recommendations to the Committee for discussion.
- 3. The Committee Chair may invite non-members to serve on a subcommittee or working group with the prior approval of the DFO.

C. *Task Statement.* The Committee Chair shall issue a Task Statement to each subcommittee or working group established. Subcommittees and working groups must adhere to the purpose of the group as laid out in the associated Task Statement. The Task Statement shall:

1. Clearly explain the purpose and goal of the subcommittee/working group and any anticipated deliverables; and
 2. State the duration of the subcommittee/working group.
- D. *Full committee deliberation requirements.* Subcommittees and working groups may not work independently of the Committee and must submit their advice, reports, and recommendations to the Committee for the full and thorough deliberation by the Committee. Subcommittees and working groups have no authority to make decisions on behalf of the Committee or the Commission. They must report directly to the full Committee; they may not report to or provide recommendations directly to the Commission or to individual Commissioners.
- E. *Procedural requirements.*
1. The requirements of the Federal Advisory Committee Act and 41 CFR part 102-3 do not apply to subcommittees and working groups unless otherwise directed by these Bylaws.
 2. Committee quorum requirements do not apply to subcommittee and working group meetings.

VIII. Meetings.

- A. *Frequency.* The Committee will meet at least once a year and as otherwise approved by the DFO.
- B. *Location.* Meetings will be held at Commission headquarters in Washington, D.C. The time and date of the meetings shall be set in consultation between the Committee Chair and the DFO. The Committee may hold meetings at locations other than Commission headquarters, or virtually using video meeting technology, with prior approval of the Commission. The Committee Chair will submit requests to hold meetings at a location other than Commission headquarters in writing to the DFO for approval not less than 90 calendar days prior to the proposed meeting date.
- C. *Agendas.*
1. A proposed detailed written agenda for each Committee meeting, subcommittee meeting, and working group will be developed by the Committee Chair, or subcommittee Chair as applicable, in consultation with the DFO. Once an agenda has been approved by the DFO, the DFO will distribute the final agenda to the Committee or subcommittee.

2. The agenda for a Committee meeting will list all items to be voted on, topics to be discussed, subcommittee/working group status updates to be provided, planned presentations, and associated time allocations.
 3. The Committee Chair will submit all proposed Committee meeting agendas to the DFO for approval not less than forty (40) calendar days prior to the scheduled meeting.
- D. *Announcement to the Public.* The DFO will publish a notice in the FEDERAL REGISTER at least 7 calendar days in advance of the Committee meeting date. The notice will include:
- a. The name of the advisory committee;
 - b. The time, date, physical place (and/or instructions to connect electronically), and purpose for the meeting;
 - c. Whether meeting registration is required and any applicable security protocols;
 - d. A summary of the agenda, and/or topics to be discussed and instructions on how to access meeting materials;
 - e. A statement whether all or part of the meeting is open to the public or closed;
 - f. Instructions for submitting written comments, and oral comments if permitted;
 - g. Instructions on how to submit a request for physical meeting or electronic meeting accommodations consistent with relevant sections of the Rehabilitation Act, as amended, 29 U.S.C. 794.
 - h. The contact information for the DFO or other responsible agency official, or agency electronic mailbox for the committee, to contact for additional information concerning the committee.
- E. *Quorum.* A quorum (50 percent, plus one (50% + 1) of the appointed membership) of the Committee is required to vote on items being addressed during a Committee meeting. A quorum must be present, either physically or virtually, for the Committee to conduct business at any meeting of the Committee. The DFO will determine if a quorum exists prior to each meeting of the Committee. If a quorum does not exist, the meeting may continue but the Committee may take no action or the meeting may be canceled at the discretion of the DFO.

F. *Voting Procedure.*

1. Before the Committee can vote on an item:
 - a. It must be presented to the Committee;
 - b. It must be substantively discussed by the Committee during the meeting;
 - c. Proposed Committee advice, reports, and recommendations must have been made available to the public on the Committee's public website at least five (5) full business days in advance of a Committee meeting.
2. Only Committee members present (physically or virtually) at a meeting can vote on an item under consideration. Proxy votes are not allowed.
3. Formal motions must take place when voting. Any member of the Committee, including the Chair, may make a motion for a vote. A second after a proper motion shall be required to bring any item to a vote.
4. Quorum and the affirmative vote of a simple majority of Committee members is required for adoption of an item.
5. Voting methods may be by voice vote, show of hands, roll call, and ballot. Secret ballot voting may only be used for the election of Committee Chair and Vice Chair.
6. Voting options are approve, disapprove, or abstain.
7. All votes must be recorded in the minutes of the meeting (or in the transcript if one is produced).

G. *Meeting Format and Openness*

1. *Format.*
 - a. Committee meetings, subcommittee meetings, and working group meetings may meet in-person, or virtually or by teleconference with prior approval of the DFO.
 - b. Committee meetings will be formally structured and will be conducted in accordance with the requirements of the Committee Charter and Bylaws at all times.

2. *Open meetings.*

- a. Unless otherwise determined in advance by the Commission, all Committee meetings, as well as subcommittee and working group meetings of the Committee, shall be open and announced in advance to the public.
 - (1) Meetings of the Committee shall be announced in a notice published in the FEDERAL REGISTER at least 7 calendar days before the meeting. Members of the public may attend any meeting or portion of a meeting that is not closed to the public.
 - (2) Meetings of subcommittees and working groups will generally be announced on the Committee's public website on FMC.gov at least seven (7) calendar days in advance, and may also be published in advance in the FEDERAL REGISTER at the discretion of the DFO.
- b. All Committee, subcommittee, and work grouping meetings must be held at a reasonable time and in a manner or place reasonably accessible to the public to include facilities that are readily accessible to and usable by persons with disabilities, consistent with the goals of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794.

3. *Closed Meetings.*

- a. All or parts of meetings of the Committee may be closed in limited circumstances and in accordance with applicable law.
- b. No meeting may be partially or fully closed unless the Commission's General Counsel issues a written determination that there is justification for closure under the provisions of the *Government in the Sunshine Act* (Sunshine Act), [5 U.S.C. § 552b](#).
- c. Where the DFO has determined in advance that discussions during a Committee meeting will involve matters about which public disclosure would be harmful to the interests of the government, industry, or others, an advance notice of a closed meeting, citing the applicable exemptions of the *Government in the Sunshine Act*, will be published in the *Federal Register*. The notice may announce the closing of all or just part of a meeting.
- d. The Committee Chair must notify the DFO at least thirty (30) days before the scheduled date of any meeting that the Committee seeks

to close in whole or in part. The notification shall be in writing and shall identify the specific provisions of the Sunshine Act which justify closure. The Chairman of the Commission may waive the thirty-day requirement when a lesser period of time is requested and justified by the Committee Chair.

- e. If, during the course of an open meeting of the Committee, matters inappropriate for public disclosure arise during discussions, the DFO or Committee Chair will order such discussion to cease and will schedule it for a future meeting of the Committee that will be approved for closure. No meeting or portion of a meeting may be closed without prior approval and notice published in the *Federal Register* at least 7 calendar days in advance.
- f. Closed meetings may only be attended by the DFO, Committee members, presenters, members of the Commission, and necessary agency staff.
- g. Non-Committee member presenters during a closed meeting may attend only that portion of the meeting related to their presentation and must leave immediately after giving their presentation and answering any questions.
- h. Following consultation with the DFO, the Committee will issue, on an annual basis, a report that sets forth a summary of its activities in meetings closed pursuant to this section, addressing those related matters as would be informative to the public and consistent with the policy of the Sunshine Act and FMC guidance.

H. *Public comments.*

- 1. Members of the public may submit written statements to the Committee at any time by emailing nsac@fmc.gov.
- 2. Meetings and subcommittee meetings (and working groups) may include a period for oral comments at the discretion of the Chair of the Committee, subcommittee, or working group as applicable.

IX. **Advice, Reports, and Recommendations.**

- A. *Committee.* To provide the Commission with information, insight, perspective, and expertise relating to the competitiveness, reliability, integrity, and fairness of the international ocean freight delivery system, the Committee will seek to produce consensus advice, reports, and/or recommendations. If the Committee by majority vote agrees, the Committee may include discussion of both areas of agreement and disagreement and any reasons giving rise to the difference of opinion within the

Committee. In such a case, the Committee is not required to come to a consensus opinion on the substance of the differing viewpoints, just the decision to submit both or all views to the Commission.

1. *Generally.*

- a. The Committee shall submit in writing to the Commission its advice, reports, and recommendations, in a form and at a frequency determined appropriate by the Committee and in accordance with issued task statements.
- b. Advice, reports, and recommendations received by the Committee from a subcommittee or working group must be fully discussed, deliberated, and voted on in an open meeting of the Committee.
- c. Reports, advice, and recommendations will be transmitted to the Commission through the DFO with a cover letter signed by the Committee Chair on behalf of the Committee. The cover letter must include:
 - (1) The meeting date when approved by the Committee;
 - (2) An Executive Summary of the associated advice, report, and recommendation;
 - (3) A list of any Commission actions recommended by the Committee (if applicable); and
 - (4) A unique identification number for the report, advice, or recommendation.
- d. The Committee Chair shall transmit finalized reports, advice, and recommendations to the Commission through the DFO within five (5) business days of approval, unless otherwise agreed upon by the DFO.

2. *Recommendations.*

- a. Each recommendation shall be accompanied by a detailed written memorandum describing:
 - (1) The background behind the recommendation and Committee's belief in need for Commission action;

- (2) Anticipated benefits if the recommendation is implemented by the Commission;
 - (3) Potential negative impacts if the recommendation is implemented by the Commission;
 - (4) A description of any potential disproportional impacts (positive or negative) on any geographical location or segment of the ocean transportation system if the recommendation is implemented by the Commission;
 - (5) Potential impacts (positive and negative) to American small businesses if the recommendation is implemented by the Commission; and
 - (6) Any alternative recommendations that were considered by the Committee and why those alternatives were ultimately not selected.
- b. If a recommendation directly or, in effect, proposes that the Commission engage in rulemaking, the memorandum required in paragraph a shall also be accompanied by:
- (1) A proposed draft of new regulatory text, or redline showing changes to current regulatory text; and
 - (2) A summary of the intent and impact of each provision or change.

3. *Advice and Reports.*

- a. Advice or reports (without any accompanying recommendations) are informational only. It shall be accompanied by a detailed written memorandum describing the background behind the advice or report, as well as relevant evidence, experiences, and/or data.

4. *Annual report.* The Committee will provide a report annually to the Commission reflecting activities of the Committee during the previous year. This report shall be developed jointly by the Committee Chair, in consultation with committee members and the DFO. The report shall also include a proposed Work Plan for the coming year, which shall include draft timeframes for submission of any planned report or recommendations expected in the next year.

B. *Commission.*

1. Not later than sixty (60) calendar days after receiving any report, advice, or recommendation from the Committee, the Commission shall: publish the report, advice, or recommendation on the Committee website; and respond, in writing, to the Committee regarding the recommendations, including by providing an explanation of actions taken regarding the recommendation.
2. Reports transmitted to the Commission will be placed on the Committee's public website.
3. The Commission shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the advice, reports, and recommendations received from the Committee.

X. **Minutes and Meeting Materials.**

- A. The DFO will prepare the minutes of each meeting, including one that is closed or partially closed to the public, and distribute copies to each Committee member. The minutes will include a record of:
 1. The time, date, and place (or electronic format) of the Committee meeting;
 2. A list of the persons who were present at the meeting, including Committee members, agency employees, and members of the public who presented oral or written statements;
 3. An accurate description of each matter discussed and the resolution, if any, made by the Committee regarding such matter; and
 4. Copies of each report or other materials received, issued, or approved by the Committee at the meeting.
- B. The Chair of the Committee will certify the minutes for accuracy within ninety (90) calendar days of the meeting to which they relate.
- C. The DFO will post the meeting minutes on the Committee website after the meeting minutes have been certified.

XI. External Communications.

- A. *Generally.* Members of the Committee are advisors to the Commission and have no authority to speak for the Committee outside the Committee structure.
- B. *Communications with Congress.*
 - 1. The Committee as a whole may advise the Commission on legislation or recommend legislative action. But, in their capacity as Committee members, individual members must not petition or lobby Congress for or against particular legislation or encourage others to do so.
 - 2. Members cannot testify before Congress in their capacity as a member of the Committee. If requested to testify before Congress, a member of the Committee:
 - a. Cannot represent or speak for the Committee, the Commission, any Federal Government agency, or the Administration in their testimony;
 - b. Cannot provide information or comment on Committee recommendations that are not yet publicly available;
 - c. May state they are a member of the Committee; and,
 - d. May speak to their personal observations as to their service on the Committee.
- C. *Public Requests for Information.* The DFO will respond to any public request for information about the Committee process and work products, including requests from the media. A Committee member (or the Committee Chair) will promptly forward any requests for information from the public to the DFO without responding to the requestor.

XII. Advisory Committee Staff Roles.

- A. *Generally.* The Commission is responsible for furnishing to the Committee any staff and services considered by the Commission to be necessary for the conduct of the Committee's function. Financial support for meetings may be provided by the Commission. All expenditures associated with the Committee must be approved by the DFO in advance of being obligated.
- B. *Designated Federal Officer (DFO).* The DFO serves as the Commission's agent for all matters related to the Committee and is appointed by the Chairman of the Commission.

1. In accordance with the provisions of the Federal Advisory Committee Act, the DFO must:
 - a. Ensure that the Committee's activities comply with the Act, 41 CFR part 102-3, the Committee Charter and Bylaws, Commission administrative procedures, and any other applicable laws and regulations;
 - b. Approve or call all meetings of the advisory committee or subcommittee(s);
 - c. Approve each meeting agenda;
 - d. Attend all Committee and subcommittee (and working group) meetings for their duration;
 - e. Fulfill the requirements under sec. 10(b) of the Act (codified at 5 U.S.C. § 1009(b));
 - f. Adjourn any meeting when he or she determines it to be in the public interest;
 - g. Chair any meeting when so directed by Chairman of the Commission;
 - h. Maintain information on Committee activities and provide such information to the public, as applicable; and
 - i. Ensure Committee members and subcommittee members, as applicable, receive the appropriate training (e.g., FACA overview, ethics training) for efficient operation and compliance with the Federal Advisory Committee Act and 41 CFR part 102-3.

2. In addition, the DFO is responsible for assuring administrative support functions are performed, including the following:
 - a. Notifying members of the time and place of each meeting;
 - b. Tracking all recommendations of the Committee;
 - c. Maintaining the record of members' attendance;
 - d. Preparing the minutes of all meetings of the Committee;
 - e. Attending to official correspondence;

- f. Maintaining official records and filing all papers and submissions prepared for or by the Committee, including those items generated by subcommittees and working groups;
 - g. Reviewing and updating information on Committee activities in the Shared Management System (Federal Advisory Committee Act database) on a monthly basis; and
 - h. Preparing and handling all reports, including the annual report as required by the Federal Advisory Committee Act.
 - 3. The DFO should publicly announce the cancellation of a scheduled advisory committee as soon as the decision to cancel the meeting is made. Notice of cancellation of a meeting should generally be published in the Federal Register in addition to media notification if time allows.
 - 4. The DFO should ensure the Committee's public facing website is maintained and is compliant with the requirements of relevant sections of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) and include information such as: the advisory committee charter; relevant laws, regulations, and guidance; advisory committee member rosters and subcommittee member rosters, as applicable; Federal Register notices; meeting information (such as agendas, meeting materials, and minutes); reports and recommendations; and any other information that would increase the transparency and public understanding of advisory committee functions and activities and assist in fulfilling the requirements under sec. 10(b) of the Act (codified at 5 U.S.C. § 1009(b)).
- C. *Alternate Designated Federal Officer (ADFO)*. The Chairman of the Commission may designate one or more ADFOs to assist with management of the Committee. An ADFO serves as an assistant to the DFO and performs the functions of the DFO as required by the Federal Advisory Committee Act in the DFO's absence or unavailability.

XIII. Amendments.

The Commission may amend these bylaws at any time, and the amendments will become effective immediately upon approval unless another time is specified by the Commission. Barring exceptional circumstances, the Commission will not dismiss a Committee member for non-compliance with the terms of the amended bylaws unless the member has been provided a copy of the amended bylaws by the DFO prior to the conduct in question.