



# **NATIONAL GRAIN CAR COUNCIL**

**INTERSTATE COMMERCE COMMISSION  
WASHINGTON, DC 20423-0001**

**1994**

**CHARTER OF THE  
NATIONAL GRAIN CAR COUNCIL**

**Articles of Organization of the National  
Grain Car Council**

**PREAMBLE**

**WHEREAS**, the Interstate Commerce Commission has established the National Grain Car Council (NGCC) for the purpose of coordinating policy and administration with respect to the functions and activities relating to the transportation of grain by railroad, and

**WHEREAS**, the Interstate Commerce Commission has determined that there should be an industry organization established for the purpose of consulting with and advising the Commission and industry, and

**WHEREAS**, the Chairman of the Interstate Commerce Commission, with the concurrence of the members of the Interstate Commerce Commission, has appointed members to serve thereon without compensation, and

**WHEREAS**, the Interstate Commerce Commission has deemed the creation of the National Grain Car Council to be necessary and in the public interest, and

**WHEREAS**, it is the sense of the National Grain Car Council that it can fulfill a useful function in an advisory capacity to the Interstate Commerce Commission and industries regarding the transportation of grain by rail with respect to requests from the Interstate Commerce Commission and the private sector for advice, information, and recommendations representing the views of the railroad industry, grain shippers, and car owners;

**THEREFORE**, in order to provide for their organization and operation, the members of the National Grain Car Council adopt the following Articles of Organization:

## INTRODUCTION

Herewith is a charter that establishes an Interstate Commerce Commission sponsored National Grain Car Council (NGCC). The proposal grew out of the Commission's experience in sponsoring and convening a meeting that allowed interested parties to discuss grain car supply. The Commission viewed this dialogue between rail carriers and grain shippers as a means to facilitate the resolution of ongoing problems with grain car use. That conference proved successful in gathering information and input from grain shippers and railroads. The NGCC will continue and build upon the dialogue established at the earlier conference. The NGCC will provide for, in the words of Senator James Exon, "continued oversight and attention to grain car issues." Additionally, the NGCC will provide recommendations and advice to the Commission and NGCC members on car service and distribution.

The NGCC will be composed of representatives from railroads, grain elevators, private car owners, and agricultural groups. It would be composed of not less than 30 members, plus the Chair.

The NGCC will consist of five representatives each for the six groups listed in Section 3.1 of the Charter. The membership will rotate every 2 years. Major associations, like the National Grain and Feed Association and the Association of American Railroads, will be permanent members so that all of their membership has access to the Council. Section 3.6 in Article III provides for an advisory role for the U.S. Departments of Agriculture and Transportation. Their roles will be limited to advising the members, including providing government information that would be

vital to the NGCC in its deliberations.

The authority for the Commission to create the NGCC is derived from the Commission's general powers, as outlined in 49 U.S.C. 10321, in conjunction with its powers under the car service sections of Section 11121, et seq. The statute gives the Commission flexibility to address and resolve issues of car service. Therefore, formation of an ICC-sponsored NGCC is one such method. This authority is also derived from the Federal Advisory Committee Act (FACA) 5 U.S.C. App. 2. An advisory committee is an organization providing advice and recommendations to a federal agency. It is an attempt by Congress to resolve disputes in lieu of litigation.

Any action taken by NGCC to resolve a matter would be subject to Commission review in the form of petitions to consider proposals. However, some NGCC opinions and reports may not need actual Commission action, but can simply be passed along to the Commission for informational and oversight purposes.

FACA regulates the formation and operation of advisory committees by Federal agencies. The language of the draft charter is consistent with the requirements for establishing the NGCC under the FACA and the General Services Administration implementing regulations, 49 C.F.R. 101-6.

The Commission itself will appoint two individuals under FACA -- a Designated Federal Official (DFO), who attends all meetings of the NGCC, and the Committee Management Official (CMO), who is basically charged with ensuring compliance with FACA and has

The NGCC will facilitate private sector solutions and recommendations to the Commission on matters affecting grain cars, including recurring grain car shortages. While the parties may arrive at private sector solutions to matters in dispute, any final resolution of a dispute subject to the NGCC'S jurisdiction will have to be approved by the Commission.

Costs to the Federal government would be minimal, involving only two Commission personnel. Their functions would be setting up meetings and preparing an agenda twice a year and other minor clerical duties requiring approximately 10 to 16 hours for each meeting. In addition, the Commission personnel would oversee the meetings. Committee members will not be paid or reimbursed for travel.

**INTERSTATE COMMERCE COMMISSION**

**CHARTER OF THE**

**NATIONAL GRAIN CAR COUNCIL**

**ARTICLE I**

**ESTABLISHMENT**

**Section 1.1** The Chairman of the Interstate Commerce Commission ("the ICC"), having determined with the concurrence of the members of the ICC that it is in the public interest in connection with the performance of the duties of the ICC with regard to the adequacy of grain car supplies under 49 U.S.C. 11121, et seq., and 49 U.S.C. 10321, establishes the National Grain Car Council ("NGCC") pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

**ARTICLE II**

**FUNCTION**

- Section 2.1** Balancing the needs of transportation interests, car owners, grain shippers, farmers, consumers of grain at various levels, and the public in general, the NGCC shall begin a continuing dialogue to provide advice and guidance to the ICC, and to provide a forum for the resolution of disputes and controversies, regarding distribution and transportation of grain. Any final resolution of matters subject to its jurisdiction shall all be approved by the Commission.
- Section 2.2** The NGCC shall, as it deems necessary or as requested by the ICC or the public, suggest to the ICC appropriate policies or regulations to be adopted with regard to the grain car supply.
- Section 2.3** The NGCC will function solely as an advisory body, and will comply with the provisions of the Federal Advisory Committee Act.

## ARTICLE III

### MEMBERSHIP

- Section 3.1** The NGCC shall consist of not less than 30 members, including the Chair. There will be a balanced representation from executives knowledgeable in the transportation of grain, including not less than 10 Class I railroads, 5 representatives of Class II and III carriers, 10 representatives of grain shippers and receivers, 5 representatives of private car owners and car manufacturers.
- Section 3.2** The Vice-Chairman of the ICC shall serve as an ex-officio member of the NGCC.
- Section 3.3** The Chairman of the ICC will solicit nominations for the NGCC from other members of the ICC, members of Congressional oversight committees with jurisdiction over the ICC, and appropriate carrier, shipper, farmer, grain elevator, car lessor, port and consumer organizations.
- Section 3.4** Members of the NGCC shall be selected by the Chairman of the ICC, with the concurrence of a majority of the members of the ICC.
- Section 3.5** Members will be invited to serve for a term of two (2) years. Members may serve more than one term.
- Section 3.6** The Chairman of the ICC shall invite representatives from the U.S. Departments of Agriculture and Transportation to serve on the NGCC in an advisory capacity. These representatives shall have no authority to vote.

## ARTICLE IV

### OFFICERS

- Section 4.1** The Officers of the NGCC shall consist of a Chairman, a Co-Chairman, a Vice-Chairman, and such other officers as deemed necessary by the NGCC. Chairmanship and Vice-Chairmanship of the NGCC will rotate among the different groups represented on the NGCC. At no time will both the Chairman and the Vice-Chairman be a member of the same interest group.



- Section 4.2** The Vice-Chairman of the ICC shall be designated Co-Chairman.
- Section 4.3** The Chairman and Vice-Chairman will be elected by a majority vote of those members present at the first meeting of the NGCC, and serve a term of two (2) years.
- Section 4.4** If a vacancy in either of these offices occurs, notice shall be provided that the vacancy shall be filled by election at the next regular or special meeting of the NGCC.
- Section 4.5** The Chairman shall be responsible for the management of the NGCC. In consultation with the Designated Federal Officer and the Co-Chairman, the Chairman shall establish study committees, and appoint members thereof.
- Section 4.7** The Vice-Chairman of the NGCC shall have such powers and duties as may be delegated by the Chairman, and in the absence or disability of the Chairman, shall exercise all the duties and powers granted to the Chairman.

## **ARTICLE V**

### **FUNDING**

- Section 5.1** As budgetary constraints do not allow the use of government funds to compensate members or reimburse them for travel and expenses, members shall serve without compensation and without reimbursement of travel expenses unless reimbursement of such expenses is authorized in advance by the Chief Executive Officer (CEO) of the ICC. The CEO shall have the discretion to consider the financial hardship travel would impose on a particular participant in deciding whether to reimburse that participant for travel expenses.

## **ARTICLE VI**

### **MEETINGS**

- Section 6.1** Meetings shall be held no less than one (1) time a year, a time determined by the Chairman with the advance approval of the Co-Chairman. Additional meetings may be called by the Chairman with the

approval of the Co-Chairman. Special meetings may be called by the Chairman with approval of the Co-Chairman.

- Section 6.2** The Designated Federal Official shall be present at all meetings.
- Section 6.3** Meetings shall be called on at least 15 days' notice. In exceptional circumstances, meetings may be held on less than 15 days' notice. Appropriate notice shall be published in the Federal Register in accordance with applicable laws.
- Section 6.4** Meetings shall be held in Washington, D.C., unless another location is deemed necessary by the Chairman in consultation with the Designated Federal Official and the Co-Chairman.
- Section 6.5** Meetings shall be open to the public except as otherwise provided under Section 6.6 hereof. Notice of all meetings shall be given to the public.
- Section 6.6** All or part of a meeting may be closed to the public if deemed necessary by the NGCC, upon request to the Chairman of the ICC and review by the General Counsel of the ICC, consistent with all applicable laws.
- Section 6.6** Meetings shall be conducted as require by applicable laws.
- Section 6.7** The Designated Federal Official shall approve the agenda to all NGCC meetings in advance of the meeting.
- Section 6.8** At all meetings of the NGCC, one-third of the membership shall be necessary and sufficient to constitute a quorum for the transaction of business.

## **ARTICLE VII**

### **SUBCOMMITTEES AND STUDY GROUPS**

- Section 7.1** The NGCC may establish such subcommittees and study committees of its members as may be necessary, subject to the provisions of the Federal Advisory Committee Act.
- Section 7.2** At the first meeting of the NGCC, the NGCC shall

determine the necessity of appointing administrative committees.

- Section 7.3** Study committees may be established by the Chairman at the request of the ICC or the NGCC to prepare reports for the consideration of the NGCC which pertain to important issues affecting the transportation of grain as identified by its members.
- Section 7.3.1** Study committees shall terminate when they have completed their responsibilities.
- Section 7.3.2** The members of the study committees shall be selected from the NGCC membership on the basis of their training, experience, and general qualifications to deal with the matters assigned.
- Section 7.3.3** The date, time, place, and agenda of all meetings of a study committee shall be set by its Chairman.
- Section 7.3.4** A quorum of a study committee shall consist of a majority of its members. Action by such committees shall be by majority vote of those present. Each member of a committee shall cast his or her vote in accordance with his or her individual experience and judgment.
- Section 7.3.5** The meetings of all study committees shall be open to the public.
- Section 7.3.6** Records shall be kept by the Designated Federal Official as required by applicable laws.
- Section 7.3.7** All reports of study committees presented to the NGCC for its consideration shall be made in writing and made available to all NGCC members in advance of the NGCC meeting at which the report will be considered.

## **ARTICLE VIII**

### **RECORDS AND REPORTS**

- Section 8.1** Records shall be kept by the Designated Federal Official as required by applicable laws.
- Section 8.2** The NGCC will report to the Chairman of the ICC annually, not later than March 1 of each year. The report shall contain at a minimum a list of the members and their business addresses, a description

of the NGCC's functions, the dates and places of the meetings held during the year, a summary of the NGCC's activities and recommendations made during its fiscal year, and the sources and disposition of funds. If any subcommittees or study groups have been created, a report for each subcommittee or study group shall be included in the annual report. A copy of the report shall be provided to the ICC's Committee Management Officer.

**ARTICLE IX**

**ANNUAL COST ESTIMATE**

Section 9.1 Estimated annual cost to the Government for operating the NGCC is \$1,420, including the use of two ICC personnel for a limited number of hours annually.

**ARTICLE X**

**TERMINATION DATE**

Section 10.1 Unless renewed by appropriate action prior to its expiration, the NGCC will terminate two (2) years from the date this Charter is approved.

APPROVED:

12/16/94  
DATE

Gail C. McDonald  
GAIL C. McDONALD  
Chairman