



BYLAWS OF THE NORTH EAST ASSOCIATION OF RAIL SHIPPERS (NEARS)

Version# 220614

ARTICLE I - NAME

The name of this organization shall be the North East Association of Rail Shippers (NEARS). NEARS is derived from the combination of three associations previously known as the New England Shippers Advisory Board, the Atlantic States Shippers Advisory Board, and the Allegheny Regional Shippers Advisory Board. NEARS represents shippers, receivers, carriers and suppliers of products and services to participants in the railroad marketplace, hereinafter referred to as the "Organization".

ARTICLE II - OBJECTIVES

The objective of the Organization shall be to form a common meeting ground between the buyers and the sellers of rail transportation and services for the purpose of:

- Promoting operating efficiency in the proper handling of freight by shippers, receivers, and the railroads.
- Discuss, informally, matters of mutual interest arising between the buyers and sellers of rail transportation regarding car supply, services and practices.
- Discuss implementation methods and considerations of new practices, procedures, and techniques regarding the transportation of goods via rail.
- Providing a means for the orderly presentation of the shippers' point of view to the Association of American Railroads, the Surface Transportation Board, Federal Railroad Administration, and other governing agencies on matters of mutual concern.
- Address legislative items, economic factors, environmental concerns, safety concerns and compliance, and business conditions that impact the transportation of freight, both regionally and beyond.

ARTICLE III - JURISDICTION

The scope of activities of this Organization shall include all matters of mutual concern as between rail carriers, providers of products and services, shippers and receivers that come within the province of the Association of American Railroads and the Surface Transportation Board.

The territorial jurisdiction of this Organization shall be the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, the District of Columbia, and the Canadian Provinces of Ontario and Quebec and the Maritime Provinces.

ARTICLE IV – MEMBERSHIP AND DUES

The Organization shall consist of shippers or receivers of freight by rail, of their traffic representatives, and others who have expressed interest in the objectives of the Organization. Representatives from intermodal marketing companies, equipment providers, and distribution centers and others serving the rail industry may participate in the Organization.

The Organization shall be self-supporting through the payment of annual membership dues, registration fees for each person attending a NEARS conference or seminar, advertising opportunities, and Sponsorship opportunities in NEARS activities. Dues shall be paid annually for each member, and there shall be no restriction as to the number of representatives a company may wish to enroll.

The annual dues for membership in the association and the registration fees for attendance at each meeting shall be established by the Board of Directors.

ARTICLE V – BOARD OF DIRECTORS

There shall be a Board of Directors, hereinafter referred to as the “Board”, established in order to plan for the successful achievement of the objectives stated in Article II, ensure the vitality of the Organization, monitor the relevance of the information and activities of the Organization, and interact both internally and externally on behalf of the Organization.

The Board shall consist of Members of NEARS who volunteer or are willingly nominated. To be considered eligible for consideration, an individual must meet the following criteria:

- Current membership in good standing.
- Actively participated in Organization functions for a period of two years.
- Demonstrates willingness and ability to contribute to the Organization.

Prospective Board Members must complete an application for the Board to review. Once reviewed, the application requires a motion to be voted on. If the motion is properly made and seconded, the Board will vote on the application and a simple majority is required for the application to be approved.

The Board may waive any of the eligibility criteria only with a Quorum (see Article IX). A waiver of eligibility vote must include 100% of Board members either physically counted, via email, registered post, or witnessed by a minimum of two fellow Board members. Representatives from rail shippers, intermodal marketing companies, equipment providers, distribution centers, and others serving the rail industry may serve on the Board and be elected to the offices of President, First Vice President, Second Vice President, or Executive Director (which are later mentioned herein under Article VI: Officers). Representatives from railroads, however, may not hold the aforementioned Officers’ positions, but can be active members of the Board.

The composition of the Board members should reflect a mixture of shippers, railroaders, and suppliers of products and services, and consist of no more than 20 members, not including NEARS Officers or Executive Director. In reflection of Article II, a composition weighted heavily in favor of shippers is favorable and a composition that is not should be considered imbalanced. In the event of an imbalance, it shall be the Board’s duty to solicit, or nominate, potential members to address the deficiencies.

There shall be no term limits on tenure for Board members. Board members may terminate their position at any time via written (physical letter or email) to the President. A Board member can be considered inactive and removed from the Board if:

- Unexcused failure to participate in 3 consecutive NEARS events requiring the Board Members and officers.
- Consistent failure to meet duties and responsibilities assigned by the Board.
- Major medical problems that result in incapacitation or death.
- Actions or communications that are detrimental to the health and vitality of the Organization

To remove an individual from the Board, a Quorum (see Article IX) must be recorded. The vote must include 100% of the other Board members either physically counted, via email, registered post, or witnessed by a minimum of two fellow Board Members.

ARTICLE VI – OFFICERS AND SPECIAL NEARS POSITIONS

The Officers of this Organization shall consist of a President, a First Vice President, and a Second Vice President. These officers shall hold office for a two-year term, commencing at the NEARS Conference which it is announced, to the NEARS Conference in which the new Officers are announced two years later. A new President, First Vice President, and Second Vice President will be voted upon by the Board of Directors in advance of the Fall NEARS conference of the given election year, with a majority vote of the Board of Directors required for each Officer. The new Officers will be announced at the Fall NEARS Conference of the given election year.

The President of NEARS does not vote or second any motions before the Board of Directors. However, in the case of a tie by the Board of Directors, the President of NEARS has the authority to break the tie.

The NEARS Executive Director is a special paid position by NEARS. The Executive Director is to act as Secretary/Treasurer of the organization and reports directly to the NEARS Board. The Executive Director may not second or vote on a motion before the Board. Executive Directors do not have a term limit. To remove or replace an Executive Director, a vote by 100% of the Board is required with a 2/3 majority required.

ARTICLE VII – DUTIES OF OFFICERS

President: It shall be the duty of the President to preside at all meetings, conferences, and seminars of the Organization. He or She shall appoint the Chairperson and members of all committees except as otherwise provided herein. He or she shall be responsible for addressing issues that are impacting members of the Organization during the term through providing leadership and guidance for events and activities of the Organization. The President or their designate shall represent the Organization for all North American Rail Shippers Association (NARS) events.

First Vice President and Second Vice President: In the absence of the President, Presidential duties shall be performed by the First Vice President and in the absence of the both, by the Second Vice President. Both Vice Presidents shall also perform such duties as may be assigned to them by the Organization or the President.

Executive Director: The Executive Director, also acting as Secretary/Treasurer, shall maintain the records of receipts and expenditures of the Organization, arrange for and distribute all dockets and minutes and issue all meeting calls. A balance sheet will be submitted to the Board of Directors at the Board of Directors Meetings. The Executive Director shall be responsible for all administrative duties of the association and shall be assisted by the Chairperson of the Advisory Committee. The Executive Director or their designate shall represent the Organization for all North American Rail Shippers Association (NARS) events. The Executive Director is a paid representative employed by the Board of Directors at a compensation amount decided by the Board of Directors.

ARTICLE VIII – BOARD MEETINGS

Regular meetings of the Board shall be held twice a year at the date set by the President. The President may call special meetings at any time and place when in his or her opinion the necessity exists or whenever he or she is requested to do so by not less than two-thirds of the Board.

Robert's Rules of Order shall govern the procedure at all meetings so far as they may be consistent with the By-laws.

Board members, Officers and the Executive Director are expected to attend all regular meetings of the Board.

ARTICLE IX - QUORUM

Two-thirds of the active Officers, Board Members and Executive Director shall constitute a quorum at all board meetings of the Organization. Participation in person, conference call, by proxy, or any other means that allows for participation in discussion and votes, constitutes as being part of the quorum.

ARTICLE X - VOTING

Members present at a meeting of the Board may participate in all discussions or debates, but only the Officers, excluding the President as detailed in Article VI, and Board members may vote.

In no case shall any action concerning the Organization's policy become final unless and until it is approved by a simple majority of the Officers and Board members, provided, however, that in the recording of any such action, the dissenting views of any individual member shall, at his or her request, be recorded, and further provided that no individual member shall be barred from taking such individual action as it may deem proper.

ARTICLE XI – ADVISORY COMMITTEE

The Advisory Committee consists of a Chair, up to 5 other members, and the Executive Director serving as Secretary. Members must include past or current Board members which shall be appointed by the chair and can include up to two (2) individuals who have never served on the Board but have the experience, qualifications and character deemed appropriate which requires Board approval to serve. The Immediate Past President of the Organization serves as the Chair of the Advisory Committee unless he/she is unable to serve or chooses not to. An election by the Advisory Committee to select a new Chair will be held if the Immediate Past President cannot or will not serve.

The purpose of the Advisory Committee is to review and make financial recommendations, discuss recommendations of other committees presented to them, review all applications for the board of directors, provide guidance, and respond to the needs of the Board as requested. Only members of the Advisory Committee who also are members of the Board may vote. The Advisory Committee will make recommendations to the full Board of Directors to vote on. Meetings of the Advisory Committee will be conducted at the discretion of the Advisory Committee Chair.

If the Organization is dissolved, the Advisory Committee shall recommend to the Board the distribution of any remaining assets.

ARTICLE XII – COMMITTEES

Committees are established at the discretion of the Board of Directors. All Committee recommendations must be voted on and approved by the Board of Directors before being acted upon. All recommendations by Committees must be submitted to the Advisory Committee who will make their recommendations to the Board of Directors for vote.

ARTICLE XIII - DOCKETS

A subject for discussion of the Board of Directors needs to be submitted to the Advisory Committee fifteen (15) days before the scheduled meeting date. Any subject not filed as herein provided may be considered at any Board of Directors meeting, but only by a simple majority consent of members present.

ARTICLE XIV - PROCEDURES

Insofar as they may be consistent with the Constitution and By-Laws of the Association, "Robert's Rules of Order" shall govern the proceedings at all meetings of the Organization of Directors and the Association, unless suspended by majority consent.

ARTICLE XV - ANTITRUST IMPLICATIONS GUIDELINES

Antitrust violations are a serious concern to all of our companies. And in particular, our companies are very interested in the integrity with which we conduct ourselves at our National and Regional conferences and seminars. It is no secret that without the support of our companies, the North East Association of Rail shippers, its sister regional associations, and the North American Rail Shippers Association movements would not survive. Therefore, it is of paramount importance that we conduct our business in an ethical manner.

In an effort to relieve the anxiety associated with antitrust involvements, the Organization will abide by the following guidelines:

- Limit all conference and seminar activities to the NEARS' objectives which are focused on the promotion of operating efficiency in the proper handling of freight cars by shippers, receivers, and the railroads.
- Revoke or deny any membership to NEARS only for failure to pay required dues.
- Precede by written notice, agenda, or docket all seminars and meetings.
- Keep all conferences, seminars, and meetings open to all shippers, carriers, and interested third parties.
- Declare out of order and forbid to continue any venture by any person in the areas of boycotting, price fixing, and/or divulging any proprietary information.
- Avoid any activity that relates to a collective action in terms of diversion, short haul, adverse routing, etc.
- Always be mindful of your own company's guidelines that are given to you for your protection as well as theirs.

Two parliamentarians will be appointed by the President at each Organization meeting, conference, seminar, and all meetings of the general membership. They will be introduced at the beginning of each session. The primary duties of the parliamentarians will be to alert the membership of the objectives of the association and to caution members in attendance to avoid any discussions, agreements, understandings, or using the facilities or activities of the association to disclose to each other information with respect to price fixing, boycotts, or any other related activities that could be held as unreasonable restraints upon competition or acts of unfair competition. The parliamentarians will have authority to immediately terminate any such activities, if in their best judgment, such activities create an appearance of wrongdoing or divulging any proprietary information.

ARTICLE XVI - AMENDMENTS

These By-Laws may be amended by a two thirds vote of the Board of Directors, provided notice of such changes shall have been submitted to all Board Members, so as to be in their hands at least fifteen (15) days prior to the meeting at which the changes are to be considered. These By-Laws are available upon request.

VERSION

- **Fully Approved Version: January 1st, 2006**
- **11/18/15 - Articles I – X, Amended and Approved**
- **10/14/16 – Reviewed by Bylaws Committee**

- **11/7/2016 – Reviewed By Board via Conference Call**
- **11/11/2019 – Reviewed By Board at Board Meeting, Approved**
- **06/14/2022 – Reviewed By Board at Board Meeting, Article V Amended and Approved**