

DGAC Bylaws



September 9, 2019

MISSION STATEMENT

Mission

DGAC promotes the safe transportation of hazardous materials/dangerous goods globally by providing education, assistance, and information to the private and public sectors, through our unique status with regulatory bodies, and the diversity and technical strengths of our membership

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ARTICLE I CORPORATE IDENTITY

1. Name and Short Reference

The Dangerous Goods Advisory Council shall also be known and may be referred to herein as "DGAC," "Dangerous Goods Advisory Council, Inc." or "the Council."

2. Principal Place of Business:

The principal place of business of the Council shall be in the Washington, DC metropolitan area.

Article II PURPOSES AND POWERS

1. The Council shall have the purposes and powers stated in its Articles of Incorporation, and such other powers as are now or may be granted hereafter by the Bylaws or otherwise by law.
2. The primary purposes of the Council shall be:
 - to assist its members in evaluating and improving the practicality and efficiency of laws and regulations which impact the safe and harmonized distribution of dangerous goods and other hazardous products in commerce, through the accumulation, exchange and coordination of information and viewpoints relevant to its members and other concerned parties; and
 - to educate its members in understanding current, proposed, and pending requirements.
3. To achieve these purposes, the Council shall advocate to enhance safe and harmonized transportation, supply and use of hazardous chemicals, provide education, and assist other persons or organizations, including government and industry, in the formulation or improvement of relevant laws and regulations.

ARTICLE III MEMBERSHIP

1. Eligibility:

Council membership shall be limited to businesses, trade associations and commercial enterprises engaged in one or more activities related to the distribution of dangerous goods and other hazardous products in commerce.

2. Voting Rights:

Each member shall have one vote, except an honorary member and a member included in a special membership category established pursuant to Article IV 1.c.

3. Member Representation:

Each member shall be entitled to designate one individual as its named representative. An individual designated as the representative of a member may be changed at any time at the pleasure of the member when the designation or change is reported to the Council. No one other than the designated representative of a member shall be entitled to vote on behalf of that member.

ARTICLE IV DUES AND ASSESSMENTS

1. Dues:

- a. The Board shall have the power to levy and collect dues from members of the Council, and to impose sanctions for delinquencies thereof.
- b. For the assessment of dues, the Board may establish categories and subcategories of the membership.
- c. The Board may establish a special category of membership, such as honorary membership, which shall have neither the power to vote nor entitle the member's designated representative to serve as an Officer or Director.

2. Special Assessments:

- a. The Board of Directors shall have the power to levy and collect special assessments from all members.
- b. A special assessment must be approved by two-thirds (2/3) of the Directors voting in accordance with the procedures of Article IX.

3. Payment of Dues and Delinquency:

- a. Dues shall be paid by January 1 each year.
- b. As a condition of membership, each member shall pay all dues and any special assessments. Any member that fails to pay its dues or special assessment within sixty (60) days of the due date shall not be considered in good standing and shall immediately forfeit membership.

4. Rules and Procedures:

The Board may establish procedures for the levy and collection of dues and special assessments. Such procedures shall have the same force and effect as the Bylaws.

5. Termination of Membership and Liability for Dues:

Any member may resign by giving notice in writing to the Chair of the Board or to the Secretary. Receipt of such notice by the Chair or Secretary shall be deemed notice to the entire Board, and membership shall terminate on the day of receipt, or such other time as may be specified in the notice of termination. A resigning member shall not be entitled to a refund of any portion of the dues paid for the membership year in which the member resigned.

ARTICLE V DIRECTION OF THE COUNCIL

The overall direction of the Council is vested in the Board of Directors.

ARTICLE VI BOARD OF DIRECTORS

1. Composition:

- a. Except during brief periods when one or more seats may be vacant, such as may be caused by a Director's resignation, etc., the Board shall be comprised of a minimum of twelve (12) elected member representatives. Vacancies will be filled according to Articles VI.7 and VII. The number of positions may exceed twelve (12) in the case where past Directors are elected as Officers.
- b. All Directors serve without compensation.
- c. In addition, the President serves on the Board in a non-voting capacity.

2. Eligibility:

Only a designated representative of a Council member in good standing shall be eligible to serve as a member of the Board.

3. Quorum of Directors:

A majority of the Board, exclusive of vacancies, shall constitute a quorum for the transaction of Board business. If a quorum is not present at a meeting of the Board, the Directors present shall have the power to adjourn the meeting without notice until a quorum is present at a later meeting.

4. Notice of Meetings:

Whenever notice is required to be given to any Director, under the provisions of the Articles of Incorporation, by these Bylaws, or by any law, such notice may be given by electronic media or by mail, addressed to such Director at that Director's address as it appears on the records of the Council.

5. Responsibilities of the Board of Directors:

- a. Determine the Council's mission and purpose.
- b. Select the President of the Council.
- c. Support the President and evaluate his/her performance.
- d. Ensure effective organizational planning and policies.
- e. Ensure that the Council has sufficient resources.
- f. Ensure the effective management of the Council's resources.
- g. Enhance the Council's public image and standing.
- h. Determine the Council's services, programs and products.
- i. Monitor the Council's services, programs and products.
- j. Review the performance of the Board.
- k. Draft and maintain written policies.
- l. Annually approve the Council's budget.
- m. Annually approve the Council's strategic plan.

6. Responsibilities of the Individual Directors:

- a. Actively participate in Board Meetings.
- b. Attend the Annual Conference.
- c. Aid in the recruitment of new members.
- d. Aid in the retention of existing members.
- e. Assist in the staffing of the DGAC booth at the Annual Conference.
- f. Participate in open discussions/approvals of position papers, formal correspondence and official Council positions.
- g. Maintain the confidentiality of DGAC business information.

7. Resignation, Removal and Vacancies:

- a. In the event of a resignation, removal or vacancy among the elected members of the Board, created by other than the ordinary expiration of a duly-elected Director's term, a person may be elected to complete the term by a simple majority of current members of the Board.
- b. A sitting Director who becomes the member representative of a different Council member shall be eligible to complete his or her term of office.
- c. Upon a three-fourths (3/4) majority vote of all Directors, the Board may remove any Director from membership on the Board for or without cause.

8. Conflicts of Interest:

Each Director recognizes that he or she has an affirmative duty to avoid conflicts of interest that may occur during their tenure.

- a. Any duality of financial interest or possible direct or indirect conflict of interest on the part of any Director shall be disclosed to all other Directors and made a matter of record through a periodic procedure established under subparagraph e. of this paragraph, and again when the interest becomes a matter of Board action.
- b. Any Director having a duality of interest or possible conflict of interest on any matter shall not vote or use his or her personal influence on that matter, and shall not be counted in determining a quorum if there is a vote on that particular matter. The minutes of the meeting shall reflect that a disclosure was made, by whom, the abstention from voting, and the presence of a quorum.
- c. The foregoing requirements shall not be construed as preventing a Director from briefly stating his or her position in the matter, nor from answering pertinent questions of other Directors, since his or her knowledge may be of great assistance.
- d. Each new Director shall be advised by the President of this policy upon entering on the duties of his or her office.
- e. Each Director shall annually file with the Board a conflict of interest statement, in a form and at a time prescribed by the Board, which statement shall be appended to the minutes of the meeting of the Board held in conjunction with the Annual Meeting of the members and treated as an integral part thereof.
- f. No Director, acting as such, shall receive compensation from the Council. Reimbursement of reasonable expenses paid or incurred by a Director on Council business shall not be treated as compensation and shall be paid in accordance with Article XIV 5.
- g. The Council shall not enter into any agreement with any Director for the receipt of goods, services or facilities provided by the Director or the Director's employer to the Council unless the terms of such an agreement are fully disclosed and agreed to by the Board prior to the execution of the agreement by the Council. Services rendered to the Council prior to the disclosure and approval of the terms by the Board shall be considered to have been rendered voluntarily by the Director.
- h. All Directors, by virtue of their election to that position, are in a fiduciary relationship to the Council, and as such, in addition to the above, must act fully in accordance with the common law, and the law of the District of Columbia relating to fiduciary duties.
- i. These provisions, where not separately stated or excused, shall also apply to the employees of the Council.

ARTICLE VII ELECTION OF DIRECTORS AND TERMS OF OFFICE

1. Nominating Committee:

- a. At least sixty (60) days before the Annual Meeting, the Chair shall appoint a nominating committee consisting of five member representatives, including at least two (2) Directors. One of the Directors shall serve as Chair. No person shall serve as chair of the Committee more than once during any three consecutive years. No officer of the Council or Director standing for reelection may serve on the Nominating Committee. In addition, the President shall serve on the Nominating Committee in an advisory, non-voting capacity.
- b. A quorum for the Committee shall consist of three (3) of its members.
- c. In selecting nominees, the Committee shall strive to assure that diverse interests are represented on the Board.
- d. At least 20 days prior to the Annual Meeting, the Nominating Committee shall submit to the President the names of those member representatives it is nominating to be Directors. The President shall provide, in writing, the names of those nominees to the member representatives within five (5) business days and notify the member representatives that they may make additional nominations. Additional nominations from the member representatives must be received by the President within five (5) business days of the

notice. Upon closure of the nominating process, the President will establish and publish to the general members an electronic method (e.g., email, website polling, etc.) of casting their votes. The President and Nominating Committee will tally the votes and announce the results at the Annual Meeting.

2. Terms of Office:

- a. Directors shall be elected for a term of two years. Terms shall be staggered, in so far as possible, so that one-half the Board is elected annually. Directors shall hold office for the full term for which elected, or until such time as that Director resigns, is no longer an employee or representative of a member, or is removed under Article VI 7 d.
- b. Except for an officer of the Council, or a Director chosen to complete the partial term of a vacated seat, a Director may not serve on the Board for more than six consecutive years.
- c. Former Directors shall be eligible for re-election to the Board after being off the Board for at least one year.

ARTICLE VIII MEETINGS

1. Annual Meeting:

- a. A meeting of the members of the Council shall be held at least once a year and designated the Annual Meeting, at such time and place designated by the Board.
- b. At the Annual Meeting the members of the Council may transact such business as may properly be brought before the meeting.
- c. A notice of the Annual Meeting, stating the place, day and hour of the meeting, shall be sent to each member by first class mail or electronic media not less than fifteen (15) nor more than sixty (60) days before the date of the meeting.
- d. The members present shall constitute a quorum at the Annual Meeting of the Council.

2. Board Meetings:

- a. The Board may meet live or electronically, and shall meet no less than four (4) times per year on such dates and at such places as are published by the President.

3. Committee Meetings:

All standing and ad-hoc committees shall meet whenever and wherever their duly appointed chairs designate and may meet in person or by electronic means. Standing committees shall usually meet in conjunction with meetings of the Board. Individuals employed by members of the Council are permitted to attend committee meetings and visitors may be invited in accordance with procedures established by the Board.

ARTICLE IX VOTING

1. Majority Vote:

- a. With the exception of votes to amend the Articles of Incorporation or Bylaws (Article XV), votes to approve special assessments (Article IV), and votes to approve a majority view and/or position (Article XII), when a quorum is present at any live or electronic meeting that has been properly called and assembled, a majority of those present and voting will prevail on any question.
- b. With the exception of votes to amend the Articles of Incorporation or Bylaws (Article XV), votes to approve special assessments (Article IV), and votes to approve a majority view and/or position (Article XII), when a vote is taken by mail or electronic media, a majority of the eligible votes received by the Chair's stated deadline shall prevail on any question.

2. Procedure at Board Meetings:

- a. *Voting at Live and Electronic Meetings:* Voting on any matter may be conducted during a live or electronic meeting of the Board by those Directors present. No vote by proxy will be recognized as an official vote in connection with any matter before the Board.
- b. *Special sessions:* Voting on any matter may be conducted by mail or electronic media at times other than live or electronic meetings of the Board. A vote submitted by mail shall be signed by the Director casting the vote.

3. Procedure at Committee Meetings:

Voting on any matter may be conducted during a meeting of a committee, or at any other time and in any fashion established by its chair. No more than one individual representing a member of the Council is permitted to vote on an issue. The proper recording of votes is the responsibility of a committee's chair.

4. Procedure at Meetings of the General Membership:

Voting by member representatives may be conducted in person, by mail, or by electronic media.

5. Procedure for Approval of Submissions to National and International Regulatory Bodies:

Whenever necessary to expedite the submission of a document to a national or international regulatory body that requires Board approval, the President may solicit the views of the Board by any means, e.g. telephone or electronic media, to accomplish this purpose. The result will be reported by the President to the Directors; however, an individual roll call record is not required.

6. Action by Consent:

Any action required by law, the Articles of Incorporation, or the Bylaws, or any action that may otherwise be taken at a meeting of the Board may be taken without a meeting by using mail, electronic media, or other appropriate means, if approved by a majority of the Directors entitled to vote with respect to the subject matter of such consent.

7. Rules and Procedures:

- a. The Board may establish such procedures as it deems necessary or desirable for the conduct of the Council's business.
- b. Any rules or procedures adopted by the Board shall have the same force and effect as the Bylaws.

ARTICLE X NOMINATION AND ELECTION OF OFFICERS

1. Designation:

The officers of the Council shall be a Chair, a Vice Chair, a President, a Treasurer and a Secretary. With the exception of the President, all shall serve without salary. The Board may create such other positions of officers as it may deem necessary, and shall specify their duties at that time. Any two or more elected offices may be held by the same person.

2. Eligibility:

Except for the President only current or past members of the Board of Directors are eligible to serve as officers. Employees of the Council, other than the President, shall not be eligible. Only a designated representative of a Council member in good standing shall be eligible to serve as an officer.

3. Elections:

Except for the President, all officers shall be nominated by the Nominating Committee and elected by a majority of the Board. The President shall be appointed by the Board. At least twenty (20) days prior to the Annual Meeting, the Nominating Committee shall submit to the President the names of those member representatives it is nominating to be officers. The President shall immediately provide the member representatives of the Council the names of the persons so nominated. Elections of officers shall be held at a meeting of the Board held in conjunction with the Annual Meeting of the members.

4. Terms:

- a. Except for the President, the terms of all officers shall be two (2) years, or until their respective successors are elected. All terms shall begin at the close of the Board Meeting at which each is elected. The President shall serve at the pleasure of the Board.
- b. The Board shall specify the term for any officer positions created pursuant to paragraph 1 of this Article.

ARTICLE XI DUTIES OF OFFICERS

1. Chair:

- a. The Chair serves as chief elected officer of the Council and shall preside at all meetings of the Board and of the members, and generally supervises the business affairs of the Council. The Chair shall be an ex-officio member of all committees of the Council except the Nominating Committee. The Chair shall appoint chairs for all committees and any ad-hoc committees and task forces created by the Board.
- b. The Chair shall report on the Council's operations at the Annual Meeting of the members, and shall report to the Board at scheduled meetings on matters of interest to the Council. The Chair may utilize the services of the President and staff of the Council in performing these duties.
- c. The Chair will serve as chair of the Leadership Planning Committee (LPC).

2. Vice Chair:

The Vice Chair serves as the second highest elected officer of the Council and assists the Chair in the performance of his or her duties. The Vice Chair shall have such powers and perform such duties as from time to time may be conferred by the Board or the Chair. In the event of the Chair's absence from a Board meeting, or disability, or at the Chair's request, the Vice Chair shall serve as the acting Chair, and shall have all of the powers and perform all of the duties otherwise conferred upon the Chair. Unless otherwise directed by the Board or by the Chair, the Vice Chair may utilize the services of the President and staff of the Council in performing these duties.

3. Treasurer:

- a. The Treasurer serves as the third highest elected officer of the Council and assists the Chair in the performance of his or her duties. The Treasurer shall ensure the integrity of the fiscal affairs of the Council and is responsible for its financial records, which shall be kept at the Council's headquarters, shall at all times remain the property of the Council, and shall be open to inspection by any Director. The Treasurer shall be Chair of the Finance Committee.
- b. The Treasurer shall report on the financial condition of the Council at meetings of the Board and present an annual financial report to the membership at its Annual Meeting, and present such other reports as may be directed by the Board or Chair. The report presented at the Annual Meeting shall set forth in appropriate detail: the assets and liabilities, including relevant trust funds, of the Council for the fiscal year ending immediately prior to the Annual Meeting of the members; the principal changes in assets and liabilities, including trust fund moneys, incurred during that fiscal year; the revenues of the Council for the fiscal year, including receipts restricted to any particular purpose; the expenses and other

disbursements for that fiscal year; and the number of current members of the Council as of the end of that fiscal year, including any increase or decrease in number from the previous fiscal year; and, any other information which the Board may direct. A copy of the report, or an abstract, shall be included in the minutes of the Annual Meeting.

- c. The Treasurer shall post such bond as may be directed by the Board. Unless otherwise directed by the Board or by the Chair, the Treasurer may utilize the services of the President and staff of the Council in performing these duties.

4. President:

- a. *President:* The President serves as the chief executive officer of the Council. The President shall supervise, coordinate and manage the day-to-day activities of the Council and may perform such functions as are customary to that position. When the position of Vice President is established and filled by the Board, the Vice President (1) serves in place of the President to an extent delegated by the President or the Board, and (2) serves as acting President when the position of President is vacant.
- b. The President shall report directly to the Board. The President shall have the authority to hire and terminate employees, agents, and independent contractors of the Council, and set the sale price of all services provided by the Council to members and nonmembers (other than dues and special assessments). In addition, the President shall be responsible for preparing an annual budget to be submitted to the Finance Committee, and performing such other duties as the Board assigns.
- c. The President shall participate on, and collaborate with, the LPC.

5. Secretary:

- a. *Secretary:* The Secretary assists the Chair in the performance of his or her duties. The Secretary shall give, or cause to be given, notice of meetings of the Board and of the general membership, and all other notices required by law or these Bylaws. The Secretary shall have responsibility for retention of the official minutes and records of the Council, which shall be kept at the Council's headquarters. The minutes and records shall at all times remain the property of the Council, and shall be open to inspection by any member.
- b. The Secretary shall perform other duties as may be assigned by the Chair. Unless otherwise directed by the Board or by the Chair, the Secretary may utilize the services of the staff of the Council in performing these duties, including the appointment of an Assistant Secretary.

ARTICLE XII FORMAL AND INDEPENDENT ACTION

1. Consensus Requirement:

Every effort will be made to accommodate and reconcile the views of the various interest groups on subjects considered by the Council before a formal recommendation is sent to any government agency, intergovernmental body or other group. If it is not possible to reach a consensus opinion, the majority view shall be sent provided it is approved by at least two-thirds of the members voting in accordance with the procedures of Article IX.

2. Reconsideration:

A member who objects to the submission of the majority view (as determined in Article XII 1) as a Council recommendation may request that the Board reconsider the Council's decision by making written notification of its desire for reconsideration to the Chair and the President. The notification must be made in writing by the member's representative after the decision is reached and before the recommendation is submitted. The member's representative must make timely, reasonable efforts to ensure that either the Chair or the President has received and is aware of the notification. If upheld by at least 2/3 of the

members of the Board of Directors voting in accordance with the procedures of Article IX, the majority view will be sent. The Chair may use any appropriate means to determine the decision of the Directors.

3. Independent Action:

All members shall retain the right to take independent action.

ARTICLE XIII COMMITTEES

The Council shall have the following standing committees for governance and policy, and such other committees as may from time to time be required. Except for the Leadership Planning Committee and the Finance Committee, committee chairs are designated by the Chair. Unless specifically noted, a quorum of a committee shall be the member representatives present.

1. Leadership Planning Committee (LPC):

- a. The LPC shall consist of the Chair, Vice Chair, and Treasurer. The President shall also serve on the LPC in a non-voting capacity. The Chair shall serve as Chair of the LPC. A quorum of the LPC shall be three (3) voting members. Temporary members may be added at the discretion of the Chair in order to provide necessary subject matter expertise or insight into specific issues. Temporary members will serve in a non-voting capacity.
- b. The LPC, in collaboration with the President, shall be charged with the drafting of a proposed strategic plan.
- c. The LPC, in collaboration with the President, shall be charged with the periodic review of the Council's strategic plan, and with the drafting of any recommended changes. This periodic review shall occur at least annually.
- d. The proposed strategic plan, and any subsequent recommended changes thereto, shall be submitted by the LPC to the Board of Directors for action .

2. Finance Committee:

- a. The Finance Committee shall consist of the Chair, Vice Chair, Treasurer, and two (2) Directors nominated by the incoming Chair in consultation with the Treasurer and elected by the Board. The Treasurer shall serve as Chair of the Finance Committee. A quorum of the Finance Committee shall be three (3). The President shall also serve on the Finance Committee in a non-voting capacity.
- b. The Finance Committee oversees the financial affairs of the Council and has specific responsibility for preparation of an annual budget for submission to the Board for its approval. It shall appoint a certified public accountant to audit the Council's finances at least once every two years.

3. Nominating Committee:

See 1.a. of Article VII.

4. Other Committees:

The Council may have such other committees as the Chair or Board may deem necessary, and each committee may form subcommittees as needed.

ARTICLE XIV OPERATIONS

1. Fiscal Year:

The fiscal year of the Council will be the calendar year.

2. Banking:

All checks, demands for money and notes of the Council shall be issued in accordance with procedures established by the Finance Committee.

3. Nonprofit Operations - Compensation:

This Council will not have or issue shares of stock. No dividend will be paid and no part of the income of the Council will be distributed to its Directors, Officers, or Members, except for the salary of the President and as reimbursement for out-of-pocket expenses incurred by a Director, Officer or Member on behalf of the Council in the conduct of the business.

4. Loans to Management:

The Council shall make no personal loans.

5. Reimbursement for Expenses:

The Board may authorize reimbursement of Directors who attend special meetings or make appearances or presentations on behalf of the Council.

6. Distribution of Assets:

On dissolution, assets of the Council remaining after the payment or discharge of all liabilities of the Council, the return, transfer or conveyance of assets held on conditions requiring the same, and the transfer or accordance with a plan of distribution adopted by the Board. Conveyance of assets received and held subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational, or purposes similar to the Council shall be distributed in accordance with a plan of distribution adopted by the Board.

ARTICLE XV AMENDMENTS TO THE ARTICLES OF INCORPORATION AND BYLAWS

1. Articles of Incorporation

The Articles of Incorporation may be amended by two-thirds (2/3) vote of the Directors voting in accordance with the procedures of Article IX, provided that the proposed amendment and an explanation therefore has been provided to the Directors in writing at least fifteen (15) days prior to the meeting.

2. Bylaws

These Bylaws may be amended by two-thirds (2/3) vote of the Directors voting in accordance with the procedures of Article IX, provided that the proposed amendment and an explanation therefore has been provided to the Directors in writing at least fifteen (15) days prior to the meeting.

ARTICLE XVI INDEMNIFICATION AND ASSUMPTION OF LIABILITY OF DIRECTORS, OFFICERS AND OTHERS

1. Indemnification and Assumption of Liability:

The Board is authorized to indemnify, reimburse, assume the liability of, or otherwise provide for the payment of expenses paid or incurred by any present or past Director, officer, employee, or any other individual designated by the Board in connection with services rendered by that individual for the Council's use or benefit. This discretionary authority may be extended to the organizational member where its liability is based solely on vicarious responsibility for the acts of its employee who was acting within the scope of his or her duties as a Council officer or Director. The Board may create a separate fund into which designated contributions by the members or the public may be paid in support of such indemnification, reimbursement, assumption of liability or other payment provided for by this Article.

2. Notice:

Any Director, officer, employee or other individual seeking relief under this Article shall notify the President in writing of any action, suit, proceeding, or investigation in which each person may be, or become, entitled to relief under the provisions of this Article. Failure to give such required notice shall void any obligations of the Council unless such failure resulted in no detriment to the Council.

3. Insurance:

The Council may purchase and maintain insurance on behalf of any individual or organization entitled to relief under this Article.

ARTICLE XVII RULES OF ORDER

To the extent not covered by the Articles of Incorporation, by these Bylaws or by prior resolutions of the Board, or unless waived during meetings of the Council, all proceedings shall be governed by Robert's Rules of Order Newly Revised.

ARTICLE XVIII CORPORATE SEAL

The seal of the Council shall be in such form as the Board shall determine. In the event it is inconvenient to use such seal at any time, the signature of the Council following the word "Seal" enclosed in parentheses or scroll shall be deemed The Seal of the Council. The seal shall be in custody of the Secretary and affixed by the Secretary on such paper as may be directed by law, these Bylaws, or by the Board.

Adopted by the Board of Directors on September 9, 2019