



# National Freight Advisory Committee Meeting

## National Freight Advisory Committee Record of Meetings

March 25-26, 2014, U.S. Department of Transportation, Washington, D.C.

April 29, 2014, Public Webinar Meeting

May 29, 2014, Public Webinar Meeting

### Public Announcement

The U.S. Department of Transportation (U.S. DOT), Office of the Secretary of Transportation (OST), announced each public meeting of the National Freight Advisory Committee (NFAC) in a Federal Register (FR) notice. Each was published as follows:

- **March 25-26, 2014:** March 10, 2013 (79 FR 13373).
- **April 29, 2014:** April 16, 2014 (79 FR 21504)
- **May 29, 2014:** May 14, 2014 (79 FR 27675)

### s in Attendance (Yes, No, Designee)

Name	Title, Affiliation	March 25-26	April 29	May 29
Ann L. Schneider (Designee: Kevin Schoeben)	NFAC Chair, Secretary, Illinois DOT	By Phone D	Y	N
Mortimer L. Downey, III	NFAC Vice Chair, Chairman, Coalition for America's Gateways and Trade Corridors	Y	Y	Y
Stephen Alterman (Designee: Yvette Rose)	President, Cargo Airline Association	D	D	
Gregory A. Ballard (Designee: Lori Miser)	Mayor, City of Indianapolis	Y	Y	D
Kevin Brubaker (Designee: Jennifer Tarr)	Deputy Director, Environmental Law and Policy Center	Y/D	Y	Y
Jeffrey Burns	Board Member, Parents Against Tired Truckers	Y	Y	Y
Terry Button (Designee1: Tom Weakly) (Designee2: Doug Morris)	Board Member, Owner-Operator Independent Drivers Association	Y	D1	D2
Anne P. Canby	Director/Consultant, OneRail	Y	Y	Y
Joan Claybrook (Designee: Shaun Kildare)	President Emeritus, Public Citizen	Y	Y	D
Kristin Decas (Designee1: John Demers) (Designee2: Christina Birdsey)	CEO and Port Director, Port of Hueneme	Y	D1	D2
John H. Eaves	Chairman, Fulton County Commission	N	N	N



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Name	Title, Affiliation	March 25-26	April 29	May 29
John E. Fenton (Designee: Avery Grimes)	President and CEO, Patriot Rail Company LLC	Y	D	Y
Karen Flynn (Designee: David Eggerman)	Vice President, Logistics and Goods and Services Purchasing, Arkema, Inc.	D	D	D
Carlos A. Gimenez (Designee: Kevin Lynskey)	Mayor, Miami-Dade County	D	D	D
Genevieve Giuliano	Professor and Senior Associate Dean of Research and Technology, University of Southern California Sol Price School of Public Policy Technology	Y	Y	Y
John Thomas Gray II (Designee: Dan Keen)	Senior Vice-President, Policy and Economics, Association of American Railroads	D	D	Y
Rhonda Hamm-Niebruegge	Director of Airports and Chief Executive Officer, Lambert International Airport	Y	Y	N
Brad Hildebrand	Global Mode Lead – Rail/Barge, Cargill Transportation & Logistics	N	Y	Y
Stacey D. Hodge	Director, Office of Freight Mobility, New York City Department of Transportation	Y	Y	Y
James P. Hoffa (Designee: Tim Beaty)	General President, International Brotherhood of Teamsters	D	D	D
José Holguín-Veras,	William H. Hart Professor, Rensselaer Polytechnic Institute	Y	Y	Y
Jack A. Holmes	President, UPS Freight	N	Y	N
Richard Inclima	Director of Safety, Brotherhood of Maintenance of Way Employees	Y	Y	Y
Fran Inman (Designee: Annie Nam)	Senior VP, Majestic Realty Company, and Member CA Transportation Commission	Y	Y/D	Y
Randy Iwasaki	Executive Director, Contra Costa Transportation Authority	Y	Y	Y
Michael Jewell (Designee: Joe Geldhof)	Marine Engineers' Beneficial Association, AFL-CIO	D	D	D
Paul R. Kelly		Y	Y	Y



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Name	Title, Affiliation	March 25-26	April 29	May 29
Paul LaMarre, III	Port Director, Port of Monroe	N	Y	Y
Michelle Livingstone	Vice President, The Home Depot	Y	N	Y
Bonnie Lowenthal (Designee: Zak Meyer-King)	State Assembly Member, California	N	Y	D
Andrew S. Lynn (Designee: Steve Brown)	Director, Planning and Regional Development, Port Authority of New York and New Jersey	Y	D	D
C. Randal Mullett (Designee: Darrin Roth)	Vice President, Government Relations and Public Affairs, Con-way, Inc.	Y	D	Y
Rosa Navejar	President, The Rios Group, Inc	Y	Y	N
Michael Nutter	Mayor, City of Philadelphia	N	N	N
Gary A. Palmer	Senior Director, Transportation, True Value Company	Y	Y	Y
Craig Philip (Designee: Blake Roberson)	Chief Executive Officer, Ingram Barge Company	Y	D	D
John Previsich	Assistant President and General Secretary and Treasurer, SMART – Transportation Division	Y	N	N
William “Rob” Roberson	Materials and Logistics Manager Nucor Steel – Berkeley	Y	Y	N
Christopher T. Rodgers	Commissioner/President, Douglas County, National Association of Counties	D	N	N
Mark Savage (Designee: Steve Keppler)	Major, Colorado State Patrol, and President, Commercial Vehicle Safety Alliance	D	Y	Y
Karen Schmidt (Designee: Ashley Probart)	Executive Director, Freight Mobility Strategic Investment Board	Y	D	Y
Ricky D. Smith	Director, Department of Port Control, Cleveland Airport	N	N	N
Mike Tooley (Designee: Lynn Zanto)	Director (CEO), Montana DOT	N	D	N
Peter G. Vigue	Chairman and CEO, The Cianbro Companies	N	N	N
C. Michael Walton (Designee: Robert Harrison)	Ernest H. Cockrell Centennial Chair in Engineering The University of Texas at Austin	D	D	Y



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Name	Title, Affiliation	March 25-26	April 29	May 29
Leonard D. Waterworth	Executive Director, Port of Houston Authority	N	N	N
A C Wharton, Jr (Designee1: Pragati Srivastava) (Designee2: Maura Sullivan)	Mayor, City of Memphis	D1	D1	D2

## Ex-Officio Members and Other Officials Present

Name	Title, Affiliation	March 25-26	April 29	May 29
Victor Mendez	Acting Deputy Secretary of Transportation, U.S. DOT	Y	N	N
Peter Rogoff (Designee: John Drake)	Acting Under Secretary for Transportation Policy, U.S. DOT	Y/D	N	N
Daniel R. Elliott III, (Designee: David Kruschwitz)	Chairman, Surface Transportation Board	Y	N	N
Carlos R. Evans	Attorney-Advisor, Environmental Protection Agency	Y	Y	Y
Penny Pritzker, (Designee: David Long, )	Secretary, Department of Commerce	Y	Y	Y
Jo-Ellen Darcy (Designee: Pat Mutschler)	Assistant Secretary of the Army (Civil Works),	Y	N	N
R. Gil Kerlikowske	Commissioner, U.S. Customs and Border Protection	N	N	N
Tretha Chromey	NFAC Designated Federal Officer, U.S. DOT	Y	Y	Y

## MARCH 25-26, 2014

### Day 1 - Call to Order

The third in-person meeting of the NFAC was held at U.S. DOT Headquarters in Washington, D.C. on March 25-26, 2014. Tretha Chromey, DFO, called the meeting to order at 2:05 p.m. and introduced Chair Ann L. Schneider and Vice Chair Mortimer L. Downey. Vice Chair Downey presided over the meeting and Chair Schneider participated via teleconference. The meeting was open to the public.

### Opening Statements and NFAC Member Introductions

Vice Chair Downey reviewed that the purpose of the meeting was to discuss the recommendations of the six subcommittees, which were shared with the NFAC members prior to the meeting. Vice Chair Downey and Acting Deputy Secretary of Transportation Victor Mendez welcomed the group and thanked the members for



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their contributions. Deputy Secretary Mendez stressed how crucial the work being done in freight has become. He assured everyone that the efforts being put forth by the committee will contribute to a historic multimodal freight plan. Deputy Secretary Mendez stated that a strong freight network is important for remaining competitive in a global economy. He emphasized that the importance of freight will continue to grow in the future; in 2050, he stated, there will be 50 million more tons of freight. Deputy Secretary Mendez explained that the President's recent budget proposals reflect the growing importance of freight. Deputy Secretary Mendez argued in favor of a multimodal grant incentive program involving air, rail, and ports that would build on the Moving Ahead for Progress in the 21st Century Act (MAP-21), particularly MAP-21's performance-driven approach, which is driving progress in the freight industry.

Deputy Secretary Mendez noted that freight is a major part of the 30-year transportation plan. In reviewing the list of NFAC members, Deputy Secretary Mendez anticipated a large diversity of ideas and described the breadth of perspectives as a strength of the NFAC. He noted that the committee's freight efforts are being noticed within the entire Department of Transportation.

Acting Under Secretary for Policy Peter Rogoff thanked Victor Mendez for his remarks and said he was glad to be back working in this area. Under Secretary Rogoff highlighted some issues related to reauthorization, particularly that revenue from the Highway Trust Fund was lacking and would not provide adequate funding for the remainder of the year. He suggested that new, long-term, sustainable strategies were needed for closing the funding gap. Rogoff stressed that the reauthorization must take a multimodal perspective. He also discussed that there is a need to identify unique investments, including investments in freight infrastructure, that are not currently receiving adequate funding through existing avenues. Rogoff described a \$10 billion freight investment program that would have specific provisions intended to see that the multimodal investments such as last mile investments were connecting modes. Reforms would give freight stakeholders a place at the table and encourage consideration of new types of investments. Under Secretary Rogoff reminded the audience that the reauthorization would be discussed at the next NFAC meeting in July.

He stated that the recommendations made at the meeting on March 25<sup>th</sup> and March 26<sup>th</sup> would help inform the National Freight Strategic Plan. Rogoff noted that the [Department's Conditions and Performance Report](#) focused heavily on freight but that getting publicly available data is a challenge. He added that the Department could use help in getting access to that supporting data as we continue to develop the Freight Conditions and Performance report as required by MAP-21.

Under Secretary Rogoff announced that a new round of Transportation Investment Generating Economic Recovery (TIGER) grants in the amount of \$600 million was announced March 3, 2014. He suggested that freight had competed well in previous rounds and encouraged attendees to apply.

Under Secretary Rogoff recognized that the committee has evolved and pledged to provide it support in the future.

Vice Chair Downey opened the floor for questions. There were no questions.

The attendees of the meeting announced their name and title, and then the NFAC Chair, Ann Schneider, thanked the committee for their recommendations. She stated that she and Vice Chair Downey have been working with Deputy Secretary Mendez, and Under Secretary Rogoff and the Administration on capturing the diversity of viewpoints emerging in the recommendations and considering next steps.



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## National Freight Strategic Plan (NFSP) Framework Presentation

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### **John Drake, Office of Policy, U.S. Department of Transportation**

John Drake thanked NFAC members for the opportunity to address them and stated he had been with the Department for two years and previously with the Federal Motor Carrier Safety Administration (FMCSA) and the Senate Commerce Committee. Drake reiterated Under Secretary Rogoff's comment that the recommendations were being heard and incorporated into the National Freight Strategic Plan (Plan). He stated that the Plan would help inform where investment should go but also start a dialogue among all freight stakeholders. Drake reminded the attendees that a draft/framework would be released the Fall of 2014 for public comment. This will lead to the development of the National Freight Strategic Plan, which is due September 2015.

Mr. Drake assured the committee that he would be listening in to their feedback and incorporating their ideas into the document. He acknowledged his appreciation of resources like the National Freight Advisory Committee to provide an additional perspective. He thanked the group for their time and efforts in attending this meeting.

Vice Chair Downey thanked Mr. Drake and suggested that part of weighing in on a topic was having the right timing. He stated that the [surface transportation] bill being submitted was of great importance and would be the focus of the meeting in July.

Vice Chair Downey opened the floor for any questions. There were no questions.

## Committee Business

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Tretha Chromey introduced the proposed bylaws that had been provided to NFAC members. Chromey said this was not typically done in a public meeting, but that this meeting was a good opportunity to approve the bylaws. She stated the Committee's intended outcome was to have bylaws in place within one year of starting the group. The bylaws included one amendment specifically to include the language, "If consensus is not achieved, then other viewpoints will be documented and submitted." That amendment was seconded and approved. All consented and no opposed.

## Recommendations Overview by Subcommittee

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### ***Subcommittees Report Out and Member Discussion***

Vice Chair Downey recapped the trends of support for recommendations. Vice Chair Downey relayed that recommendations introduced from the morning Subcommittee meetings would not be discussed until the second day. He reiterated that the process of reviewing recommendations will include discussion by the Subcommittees and that the Chair of the Subcommittee drafting the recommendation should integrate those comments and redraft.

Vice Chair Downey invited the Subcommittee Co-Chairs to report out about their discussions from earlier in the day and the development of their proposed recommendations.

### **Conditions, Performance, and Data Subcommittee (CPD-SC)**

Anne Canby, CPD-SC Co-Chair, reported focused on assessing current conditions, identifying data gaps, and making recommendations for filling those gaps. She reported on the issue of empty containers and trailers, and suggested it was not only a matter of cost but unused capacity. The Subcommittee also identified the issue of



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private data and suggested there was a gap in seeing if there is a third-party way to clean the data that is not currently publicly available. They emphasized that data must have a purpose and must contribute to information and not simply be stand-alone data. Multistate and even international organizations are thinking in terms of megaregions and the long term planning issues and this requires data. The off peak hours were suggested as an explored and underutilized area that can be better managed with better data.

Vice Chair Downey thanked Canby and turned to the Research, Innovation and Technology Subcommittee.

### **Research, Innovation and Technology Subcommittee (RIT-SC)**

Randy Iwasaki, RIT-SC Co-Chair, discussed how innovation and technology are critical to the National Freight Strategic Plan (Plan) especially when thinking about the future of the overall freight system. The freight research program was not continued in MAP-21 and this needs to be reconsidered when developing the National Freight Strategic Plan and the next surface transportation bill. When developing their recommendations, they considered these factors and how efficiencies could be made in freight movement. Iwasaki said the team expressed concern over succession planning for the freight workforce. They emphasized workforce development as a top priority for the freight field.

Vice Chair Downey thanked Iwasaki and turned to Safety, Security, and Environment Subcommittee.

### **Safety, Security, and Environment Subcommittee (SSE-SC)**

Kevin Brubaker, SSE-SC Co-Chair, highlighted Secretary Foxx's emphasis on safety and commended the Department on their efforts. He stated the Subcommittee recognized in their discussions that freight movement is necessary, but there are concerns about safety, security, and the environment. Their recommendations fell into three categories: 1) prioritizing planning, 2) the need for data and establishing measurable goals, and 3) policy guidance for best practices. Brubaker said there was no consensus in the group about truck size and weight limits. In terms of coming up with recommendations, the Subcommittee broke the work into three subgroups but felt dissatisfied with the lack of integration afterwards. Brubaker announced that they would have additional recommendations during the second day of the meeting.

Vice Chair Downey thanked Brubaker and turned to Project Delivery and Operations Subcommittee.

### **Project Delivery and Operations Subcommittee (PDO-SC)**

Karen Schmidt and Fran Inman, PDO-SC Co-Chairs, spoke about the approach their Subcommittee took in developing their recommendations. The group reviewed the issue of project delivery with an eye to a multimodal approach. They took a "no freight left behind" view. Inman reported conversations on the topics of self-certification, right of way, and thought some of their recommendations might complement SSE-SC's recommendations. The PDO-SC focused on reduction of the duration of the National Environmental Policy Act (NEPA) process and commented that the scope of impacts considered during the NEPA process had grown beyond the original intent of the legislation.

Vice Chair Downey thanked both Inman and Schmidt and turned to International Freight Strategies and Operations Subcommittee.

### **International Freight Strategies and Operations Subcommittee (IFSO-SC)**

Rhonda Hamm-Niebruegge, IFSO-SC Co-Chair, seconded the PDO-SC's multimodal perspective. The group reported holding a valuable discussion and commented that the trend of using fewer vehicles and larger shipments for cargo movements was a major point that needed to be addressed. The change would result in



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policy impacts, infrastructure needs, and operational needs. Hamm-Niebruegge also mentioned that during their Subcommittee meeting they had one unresolved recommendation to be addressed. During the meeting, consensus was achieved and they would bring the revised recommendation to the Committee on the second day.

Vice Chair Downey thanked Hamm-Niebruegge and turned to the First and Last Mile Subcommittee.

### **First and Last Mile Subcommittee (FLM-SC)**

Stacy Hodge and Michelle Livingstone, FLM-SC Co-Chairs, introduced the team as a group of independent thinkers. They felt there was a need for infrastructure to meet the first and last mile gap. Hodge stated that when infrastructure was constructed, the purpose wasn't to meet global distribution needs and there was a shortage of adequate infrastructure now to meet that need. She also cited communication as a large barrier and expressed a desire to get the metropolitan planning organizations (MPOs), regional planners, and other stakeholders at the same table. When developing their recommendations, they developed them as one cohesive recommendation – meaning that they identified the barrier and then provided the solution as the overall recommendation. This is why all their recommendation fell into Chapter 3: Recommendations Related to Best Practices to Mitigate Community Impacts.

Vice Chair Downey thanked both Hodge and Livingstone and said the discussion on the proposed recommendations would begin.

### **Discussion on Recommendations Related to Assessment of Barriers**

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Vice Chair Downey explained that after evaluating each Subcommittee's ballot sheet for Chapter 1: Assessment of Barriers, there were:

- 16 accepted recommendations without discussion (Downey listed each one for the members)
- 2 rejected without discussion (Downey listed and mentioned the members would have to discuss based on the minority rule)
- 5 accepted with discussion if time permitted
- 13 no consensus and must discuss

#### **SSE-Recommendation 1:**

There were no objections to this recommendation but several subcommittees requested further discussion. The PDO-SC thought the recommendation may be too broad. They thought the concept was excellent, but lacked full detail as to how it would work in a policy setting. A member from the SSE-SC responded that the goal of the recommendation was to write a theoretical framework and not to be too prescriptive. The SSE-SC requested clarification on what, specifically, the recommendation was lacking. The SSE-SC commented that only a subset of hazardous materials is security threats and that the committee should try to better target that subset. By narrowing the subset, more resources can be used to reduce potential security threats. The CPD-SC commented that the SSE-SC may be combining too many recommendations into one single recommendation.

#### **RIT-Recommendation 1:**

Four subcommittees requested further discussion of this recommendation, although all subgroups approved the recommendation.

The SSE-SC suggested clarifying whether the phrase "housed and managed outside of the modal agencies" as used in the recommendation implies that these agencies are "within U.S. DOT." The SSE-SC asked for clarification as to whether this research program, as recommended, will be housed at U.S. DOT or an institution





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such as a National Academy or other university. The RIT-SC responded that the involvement of universities or National Academies would be permissible.

With respect to the issue of timeliness, the RIT-SC explained that its intent was to lay out a multi-faceted research program that is not limited to current and future research. Rather, the RIT-SC envisions a program that also conducts analysis over a multi-year historic profile.

The PDO-SC asked where the proposed research program would house its data. The RIT-SC responded that the producers of data would include all modal agencies.

### **PDO-Recommendation 2:**

The IFSO-SC commented that TIGER grant applications, and other similar funding opportunities, are costly to develop. As such, agencies that are new to the program may be discouraged from applying. However, the IFSO-SC pointed out that, although streamlining the application process may be a good idea, the probability of receiving a TIGER grant will remain low for most agencies.

The PDO-SC explained that many good projects may not be submitted for TIGER funding because of the high cost-of-entry. The PDO-SC wishes to find a way to open up the application process to smaller companies with limited capabilities. The PDO-SC reiterated that small agencies may be daunted by the low probability of their projects being selected. Some small agencies may feel that they cannot produce an adequate analysis.

### **IFSO-Recommendation 1:**

The IFSO-SC explained that both types of air cargo (i.e. belly cargo and pure freighter operations) will continue to grow in response to increasing global trade. In light of this trend, the IFSO-SC has considered existing Open Skies agreements and whether pure freighters should be granted the right to fly into large hubs (as defined by the FAA) without special permits. The IFSO-SC explained that many airports in the U.S. (particularly in the Midwest) are underutilized due to decreasing passenger service. For such airports, it is advisable to improve their connections to rail, highways, and waterways for freight transport. This recommendation is one way to help underutilized airports gain a competitive edge as airports compete for the new increase in freight traffic.

The RIT-SC explained that, as written, the recommendation grants unilateral access to non-Open Skies countries. While it is a good recommendation to expand on existing bilateral agreements, the phrasing of this recommendation may be too specific. The RIT-SC said they would be willing to submit a minority recommendation.

### **PDO-Recommendation 4:**

Three subcommittees approved this recommendation and two did not. The PDO-SC explained that the self-certification process described in this recommendation would allow an agency to move to the next phase of a project as soon as all of the necessary right-of-way (ROW) acquisitions are complete. This recommendation would resolve an administrative timing issue.

The Vice Chair expressed concern regarding the difficulty of undoing real estate acquisitions. The PDO-SC responded that the self-certification process proposed in this recommendation would take place once all ROW acquisitions are complete. The Vice Chair emphasized that this point required further explanation in the recommendation. The Vice Chair explained that forthcoming legislative language will explain whether this recommendation is appropriate.

### **PDO-Recommendation 5:**

Three subcommittees approved this recommendation and two did not. All subcommittees requested further



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discussion of this recommendation. The SSE-SC explained that as the highest goal of the U.S. DOT, safety should not be balanced against other priorities. The PDO-SC will rephrase the recommendation to explain that its purpose is to achieve “efficiency within safety.”

### **PDO-Recommendation 6:**

The PDO-SC explained that its intent in this recommendation was to limit the scope of the NEPA process to direct, local impacts, as originally intended by the Act. As an example, the PDO-SC cited Washington DOT’s consideration of the global impact of its products. The PDO-SC explained that such considerations may supersede international treaties, which would be an inappropriately broad expansion of NEPA. The Vice Chair explained that this is a difficult question, and one that is currently being considered by the judiciary. The RIT-SC agreed that this topic exceeded the committee’s purview.

### **PDO-Recommendation 8:**

All subcommittees approved this recommendation, but several indicated the need to discuss this recommendation. The PDO-SC explained that many projects are delayed due to the lack of knowledge transfer upon retirement and other personnel changes. Often, projects need to restart the permitting and compliance process due to these issues, thus negatively impacting project continuity. The PDO-SC recommended implementing internal procedures to resolve this issue.

The PDO-SC also explained that its recommendations were originally meant to be taken as a whole, and thus make more sense when taken together. The PDO-SC will identify which recommendations fall into the same category as PDO-Recommendation 8, and consider grouping the recommendations accordingly.

### **SSE-Recommendation 5:**

The IFSO-SC suggested changing the words “removes disincentives.” The SSE-SC responded that the wording aligned with their other recommendations and felt it was important to keep the same tone.

Vice Chair Downey inquired about the general feeling of the group on this recommendation. The CPD-SC felt it was overly focused on trucking and should include all modes. The RIT-SC responded that the recommendation should not tie money to safety. The RIT-SC stated that increasing liability would not solve this recommendation was drafted to address. The SSE-SC responded that the recommendation was designed to ensure that capital was in place for adequate safety equipment. DFO Chromey suggested this recommendation be tabled and rewritten.

### **SSE-Recommendation 6:**

All subgroups approved this recommendation, but several wanted more information on the recommendation. The SSE-SC explained that, until recently, private companies’ safety programs have focused solely on compliance, rather than crash prevention more broadly. The SSE-SC argued that many private companies view compliance with regulations as a complete safety program. However, the SSE-SC would prefer regulatory agencies to encourage private industry to conduct operations in line with known best practices.

The Vice Chair claimed that this is a sensible recommendation, but that the recommendation must clarify that its intent is not to require the private sector to go above and beyond requirements. Rather, the recommendation should explain why it is important or advantageous to go beyond the minimum requirements.

### **SSE-Recommendation 7:**

The SSE-SC explained that the goal of this recommendation is to promote the adoption of proven safety technologies and National Transportation Safety Board (NTSB) recommendations by expediting the U.S. DOT



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rulemaking process. However, the SSE-SC explained that it does not intend to pre-approve or endorse all NTSB recommendations. The intent of the subcommittee was for the U.S. DOT to decisively act (or not act) on NTSB recommendations in a timely fashion.

### **PDO-Recommendation 12**

In this recommendation, the PDO-SC suggested increasing annual monetary thresholds as they relate to construction cost index for Categorical Exclusions (CE) for projects with minor impacts. The PDO-SC explained that fixing a dollar amount for CE thresholds at any given moment in time does not account for changes in purchasing power. The Vice Chair agreed that this is a reasonable suggestion. The SSE-SC withdrew an intended comment after re-reading the recommendation.

### **PDO-Recommendation 16:**

This recommendation was accepted by five subcommittees, but three thought it needed more discussion. The IFSO-SC asked about the source of funding for multi-modal freight projects in this recommendation. The PDO-SC explained that, currently, freight projects compete with other modes for funding. The CPD-SC suggested that NFAC must support this recommendation, in recognition of the President's identification of freight as a national priority.

That concluded the recommendations requested to be discussed. Vice Chair Downey opened the room to discussion. A member from the SSE-SC brought up PDO-SC Recommendation 13 and thought that transportation should be looked at as a whole.

Vice Chair Downey called for a 15-minute break.

### **[BREAK]**

Vice Chair Downey reminded the public that if they would like to speak that they should register with DFO Chromey.

Vice Chair Downey opened the afternoon session by stating that there was a general approval of most of the remaining items. With that being the case, Vice Chair Downey opened the floor to recommendations requested to be discussed if there was time available. Those recommendations are shown below.

### **SSE-Recommendation 3:**

This recommendation, to harmonize cross modal security programs and regulations in different regions, received majority acceptance from NFAC members. There was no further discussion.

### **SSE-Recommendation 4:**

The SSE-SC explained that this recommendation argues that freight planning should include collaboration and streamlined interstate policies, in the context of natural and man-made emergencies. s expressed concern that this recommendation would be difficult to implement, and that the recommendation does not clarify who makes the determination of emergency status. The SSE-SC responded that this recommendation is meant to be high-level. The subcommittee also explained that, typically, States declare emergencies themselves or petition the President to make this declaration.

### **RIT-Recommendation 3:**

The RIT-SC explained that this recommendation suggests listing all pilot programs that have been implemented over the last 2-3 years. The RIT-SC explained that this recommendation should be considered a best practice, rather than a barrier, and agreed to reorganize this recommendation to reflect this.



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### **RIT-Recommendation 7:**

In response to this recommendation, the SSE-SC expressed concern about the expeditious certification of products that have been developed through research efforts. The SSE-SC rejected this recommendation for that reason. The RIT-SC will reword this recommendation to address those concerns.

### **RIT-Recommendation 8:**

In this recommendation, the RIT-SC suggested that the Strategic Plan assess the trends of today and their potential impact on the future, particularly the rise of home deliveries. The PDO-SC cautioned that future changes are unpredictable, so policies must include the flexibility necessary to adapt to change. Vice Chair Downey added that while 20 year long-range planning is part of the freight strategic plan, adapting quickly is just as important as planning for the long-term. The RIT-SC will revise this recommendation to address the PDO-SC's concern.

### **[CLOSING REMARKS AND ADJOURNMENT – DAY 1]**

Vice Chair Downey highlighted some of the proposals that evolved during discussion (as stated above). He requested that all new proposals needed to be copied and distributed to members and DFO Chromey would also send electronic copies for tomorrow's discussion.

Meeting was adjourned at 5:15pm

## **Day 2 - Call to Order**

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DFO Chromey called the meeting to order at 10:02 a.m. and turned the meeting over to Vice Chair Downey. The meeting was open to the public.

Vice Chair Downey noted that some groups worked late into the night revising and drafting recommendations and thanked them for their efforts. He recapped that the members would be reviewing the recommendations that were noted for discussion. The morning discussion would focus on any new or revised recommendations as proposed on Day 1, then the members would discuss recommendations related to performance of the freight network; the afternoon would consist of recommendations for discussion related to mitigating community impacts and public comment. He suggested the members would discuss any other recommendations in the afternoon, time permitting.

## **Discussion on Revised or Newly Proposed Recommendations**

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### **IFSO-Recommendation 2 - Revised:**

The IFSO-SC revised this recommendation between the first and second days of the NFAC quarterly meeting. The IFSO-SC explained that the goal of this recommendation is to improve rail border crossings between the U.S. and Mexico, using the model of U.S./Canada rail crossings. The PDO-SC recommended further expanding the focus of this recommendation to incorporate other modes, particularly trucking. The PDO-SC suggested that this recommendation could fit into PDO-Recommendation 25. The IFSO-SC added that this recommendation is also related to IFSO-Recommendation 6, which addresses all border crossings. The IFSO-SC will consider regrouping these recommendations to fit the various ideas together.

### **New SSE Recommendations:**

The SSE-SC explained that it had redrafted several recommendations in response to the discussion during the



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first day of this meeting. These recommendations are divided into two groupings: (1) improving safety outcomes and minimizing community impacts and (2) improving worker health and safety.

### ***New SSE Recommendations – Safety Outcomes***

1. Emphasize that the goal of zero tolerance for fatalities in all modes requires a sense of urgency.
2. Expand and improve intermodal infrastructure to promote operation and minimize safety impacts. The SSE-SC explained that this should be a critical consideration during the allocation of Federal dollars.
3. Encourage the U.S. DOT to work with states to collect and report data that will allow it to determine the classes of heavy-duty vehicles that are involved in fatal and non-fatal crashes.

### ***New SSE Recommendations – Worker Health and Safety***

The second grouping of the new SSE-SC recommendations includes several recommendations related to improving worker health and safety. The Vice Chair explained that, taken collectively, this set of recommendations endorses an effective freight system that addresses with worker safety issues. Within this recommendation are seven sub-recommendations, which the committee discussed in turn.

1. Reduce operator and worker fatigue through mode-agnostic fatigue reduction initiatives: The CPD-SC commented that, although the content of this recommendation is important, it is also controversial. The FLM-SC suggested revising the wording of this recommendation to “supporting *evidence-based* fatigue reduction initiatives.” The IFSO-SC cautioned that this recommendation may be requiring actions from private companies that should be part of their normal health programs, rather than public policy.
2. Establish appropriate minimum levels of training for new workers on transportation equipment: The CPD-SC suggested adding wording to this recommendation that if training guidance is not already provided, then it should be. The SSE-SC also agreed to add training examples into this recommendation. By suggestion of the PDO-SC, the SSE-SC agreed to retain the language in this recommendation related to the provision of wellness and fatigue management training to all freight workers.
3. Prioritize the evaluation of various compensation structures’ impacts on safety: The SSE-SC drafted this recommendation to ensure that the U.S. DOT conducts more research into different compensation structures (e.g., hourly, by the mile, flat rate, etc.), because the exact impact of each structure on worker safety remains unknown. The committee approved this recommendation.
4. Have transportation workers be paid for all work performed: The RIT-SC explained that research shows that the companies at the highest risk for crashes pay the lowest wages. The SSE-SC confirmed that there is evidence that higher pay leads to improved safety outcomes. The SSE-SC explained that there is a concern in the field that truck drivers, for example, are not currently paid for all hours worked while waiting at a dock, which may encourage them to continue driving longer than they should. The Vice Chair suggested that this recommendation requires further research to support it and the FLM-SC stated that this recommendation is too vague in its wording. The committee agreed to drop this sub-recommendation from consideration.
5. Promote the adoption of advanced technologies and compliance methods: This recommendation received no objection from the committee.
6. Improve work zone safety for workers and the public: This recommendation received no objection from the committee.



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7. Improve the effectiveness of “Whistleblower” Act safety reporting protection mechanisms: The FLM-SC responded that this recommendation implies that there are insufficient protection mechanisms for safety problems in the rail industry, which the FLM-SC viewed as inappropriate. The SSE-SC countered that the purpose of this recommendation is to simply recognize the role of whistleblower protection in safety operations. The RIT-SC suggested that this recommendation be explicitly expanded to all modes. The Vice Chair added that this recommendation be redrafted as a broad statement encouraging safety partnerships with workers.

Ultimately, the committee accepted the big picture recommendation as well as sub-recommendations 3, 5, and 6. The committee decided to drop sub-recommendation 4, although the SSE-SC noted that it would prefer the sub-recommendation to remain or made part of the minority report. Other sub-recommendations required revisions.

### Discussion on Recommendations Related to Best Practices for Improving the Performance of the National Freight Network

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Vice Chair Downey explained that after evaluating each Subcommittee’s ballot sheet for Chapter 2: Best Practices for Improving the Performance of the National Freight Network, there were:

- 13 accepted recommendations without discussion (Downey listed each one for the members)
- 7 accepted with discussion if time permitted
- 6 no consensus and must discuss

#### **IFSO-Recommendation 3:**

All subcommittees approved this recommendation, but several expressed interest in discussing it further. The PDO-SC explained that large carriers are forming alliances to address impending changes in the shipping industry. The impacts on these changes on intermodal corridors are going to be significant. Moderate-use ports will also be impacted as large ports change their goods and improve their facilities. The PDO-SC explained that the U.S. DOT may need to identify primary port corridors as the nation shifts to a dynamic system of ports. The IFSO-SC responded that IFSO-Recommendation 9 addresses this same issue, by suggesting that more domestic ships should travel from port to port within the U.S.

#### **PDO-Recommendation 25:**

In this recommendation, the PDO-SC suggested that the Department of Homeland Security establish uniform inspection procedures that remove discretion from Port of Entry Directors, except where temporary modifications are required.

The SSE-SC suggested that the PDO-SC remove the stipulation that the discretion of the Port of Entry Director be limited, due to the high level of familiarity that these individuals have with the unique security issues of their respective border crossings. Such a recommendation may be problematic from a safety and security perspective. However, it is true that some Port of Entry Directors may misuse their power. To address this issue, the SSE-SC suggested that the recommendation allow for discretion, but somehow prevent its abuse. The Vice Chair added that, according to the principles of counterterrorism, randomness is a strong deterrent. For that reason, the Port of Entry Directors need to be allowed discretion. The CPD-SC expanded on this argument by adding that discretion, as discussed, is necessary at Port of Entry that are fully staffed. In such cases, randomness in the port’s security procedures helps solve managerial issues. The PDO-SC will rewrite this recommendation to reflect these concerns.



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### **PDO-Recommendation 26:**

The PDO-SC explained that this recommendation is necessary to address the many sealed corridor rail projects underway across the country. There is currently no standard for the design of pedestrian gates, which causes delays and leads to higher costs. Adopting standards for pedestrian crossings, the PDO-SC argued, would improve the efficiency of installation and drive down cost.

### **CPD-Recommendation 10:**

The CPD-SC explained that the goal of this recommendation was to get DOTs and MPOs to think more broadly about freight, in terms of supply chain and corridor base and mega-regional issues, as well in the shorter-term (i.e., a planning horizon of less than 20 years, as is more common in the private sector).

The RIT-SC asked whether MPOs and State DOT planning staff have expertise in supply chain modeling. The CPD-SC responded that this question has come up in conversations with the Commerce Department, which considers the movement of commodities much differently from the way that States do.

The PDO-SC suggested that this should be encouraged as an educational initiative. With planners stressing the importance of sustainability, understanding the movement of goods is an element that should be addressed. The CPD-SC agreed with PDO-SC's comments but did not support the notion that supply chain modeling should be the responsibility of MPOs, because it is broader in scope than MPOs' planning areas.

The FLM-SC expressed concern about the language of this recommendation, as it might imply that MPOs must educate themselves, which would constitute a large burden. The FLM-SC also suggested that "transportation improvement plan" be changed to "long-range plan" in the text of the recommendation. The CPD-SC agreed.

The Vice Chair suggested that, given the complexity of this issue, the committee form an ad hoc group to consider this issue and draft an alternative recommendation. DFO Chromey agreed to follow up on this recommendation with the Subcommittee Co-Chairs.

### **IFSO-Recommendation 9:**

The IFSO-SC explained that off-port infrastructure improvements are necessary to the road networks and waterways adjacent to ports. While financing these types of projects can be difficult, user fees are one option for funding.

The PDO-SC reminded the group that each port is unique. The PDO-SC also requested clarification on what types of funding the IFSO-SC had envisioned to support this recommendation. The IFSO-SC responded that implementing any type of user fee has been a very hard course of funding. However, the IFSO-SC reiterated that user fees are a legitimate source of funding. This recommendation would be modified and merged with other funding recommendations.

### **PDO-Recommendation 13:**

The SSE-SC questioned whether segregating various funds for specific modes (i.e. "silos of funding"), as supported by this recommendation, was appropriate. From earlier conversations, the SSE-SC had gathered that the committee was not in support of silos of funding. Vice Chair Downey explained that the Secretary of Transportation's budget calls for a transportation trust fund that addresses a mix of modes, based on a mix of user fees and general revenues. Currently, the Federal Aviation Administration (FAA) is largely funded by user's fees.

### **IFSO-Recommendation 5:**

This recommendation had strong support, but several subcommittees expressed a desire to discuss it further.



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The SSE-SC requested that the IFSO-SC indicate the potential sources of funding for the waterborne service proposed in this recommendation. The PDO-SC responded that this recommendation was a high-level discussion item related to the effective use of funding. The IFSO-SC agreed to rewrite the recommendation to include more than just marine modes.

### **PDO-Recommendation 18:**

Requested for discussion, but request was retracted. There was no discussion of this recommendation.

### **PDO-Recommendation 19:**

The PDO-SC suggested that this recommendation is duplicated by PDO-Recommendation 21, as both relate to alternative project delivery methods. The PDO-SC agreed to combine the two recommendations.

### **IFSO-Recommendation 6:**

The IFSO-SC considered the effectiveness of freight movements across border-crossings with Mexico. The IFSO-SC agreed to combine this recommendation with others related to this topic. The SSE-SC supported this recommendation, but suggested that the IFSO-SC add that language regarding improving efficiencies without jeopardizing safety.

### **IFSO-Recommendation 7:**

The IFSO-SC explained that this recommendation was related to on-going U.S. DOT efforts regarding Next Gen technology, but that this recommendation would highlight the technology's impact on freight at airports. The lack of Next Gen technology, the subcommittee explained, is creating delays and congestion, which impact the movement of freight at passenger airports. The IFSO-SC stated that a key aspect of this recommendation was to expedite the use of Next Gen technology, as the benefit of the technology goes beyond just passenger travel but into freight as well.

### **IFSO-Recommendation 10:**

The SSE-SC said that this recommendation is connected to multiple modes, and that the IFSO-SC should expand the recommendation to include other modes, particularly rail border-crossings.

Vice Chair Downey reminded the public that comment would be taken after lunch and if they would like to speak they should register with DFO Chromey.

### **[BREAK FOR LUNCH – RECONVENED AT 1:05 PM]**

Vice Chair Downey opened the afternoon session and announced the next steps in regards to edits.

DFO Chromey referred the group to page four of the binder, where there was a prospective timeline for the National Freight Strategic Plan framework. Based on this timeline, the Department needs the recommendations by early summer. Vice Chair Downey asked that the co-chairs submit their revised recommendations by the end of the first week of April. Those recommendations would then be repackaged and sent out to the Chair and Vice Chair.

Vice Chair Downey said DFO Chromey would try to solicit members to assist in that consolidation effort. He also reminded the group that the recommendations would not be attributed to the individual subcommittee but rather be presented as recommendations of the entire advisory committee.

A member from PDO-SC requested a list of the edits discussed at the meeting. Another member from the PDO-SC asked for clarification on how rewrites were going to work. Vice Chair Downey directed that they should be





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done individually within the subcommittee. DFO Chromey said that the consolidation was to be done by the subcommittee. This is not a DOT effort and cannot be done by DOT staff support.

A member from the FLM-SC asked that some of the legacy and underutilized freight resources, such as rail trails and old ports, be highlighted and woven into the introduction somehow.

FLM-SC member reminded the entire group that a general reader should be able to understand the recommendations and that if a particular recommendation was very specific, to make sure to provide enough explanation.

Vice Chair Downey asked if a webinar was desired in a few weeks for further discussion. He clarified that it would be a public webinar. The group approved the suggestion.

A member of RIT-SC asked if there would be a chance to discuss and provide feedback prior to the webinar. Vice Chair Downey said that would need to be determined.

A member from the SSE-SC asked about if they were going to set a date for the webinar and Vice Chair Downey responded that a survey would be sent out to the group to select the best date. However, DFO Chromey announced the following deadlines and proposed dates:

- Co-chairs must rewrite by April 4<sup>th</sup>, which would include all coordination with other subcommittees. Subcommittee Co Chairs would send all rewrites to Chromey.
- Writing team would be established and draft chapters will be completed by April 18<sup>th</sup>.
- Members would receive the new report with the compiled recommendations one week prior to the webinar.
- Tentative date of April 29<sup>th</sup> for the webinar.

Vice Chair Downey then called the group to return to revised recommendations that were noted for discussion. Those recommendations are shown below.

### Discussion on Recommendations Related to Best Practices to Mitigate Community Impacts

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Vice Chair Downey presented the results of the Subcommittees' ballot sheets for Chapter 3: Best Practices to Mitigate Community Impacts:

- 5 accepted recommendations without discussion (Downey listed each one for the members)
- 7 accepted with discussion if time permitted
- 12 no consensus and must discuss

#### **SSE-Recommendation 9:**

The RIT-SC requested further clarification of the meaning of this recommendation. The SSE-SC suggested that the recommendation be rephrased to encourage the U.S. Government to support the safest and most sustainable means available. In addition, the SSE-SC explained that the goal of the recommendation is simply to encourage, and not to mandate. The Vice Chair recognized that this recommendation reflects existing policy, and that its language is taken only to encourage and not to mandate the policies of the U.S. Government.

#### **SSE-Recommendation 10:**

The PDO-SC proposed that SSE-Recommendations 9, 10, and 11 be merged.



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### **SSE-Recommendation 11:**

The PDO-SC suggested incorporating this recommendation into prior recommendations. That committee agreed to this combination of recommendation. The PDO-SC requested that the SSE-SC reword this recommendation with respect to the use of the word “co-equal.”

### **RIT-Recommendation 14:**

Vice Chair Downey asked the committee what reservations and issues it took with this recommendation. The IFSO-SC responded that they simply did not understand the recommendation, and the wording seemed unclear. The RIT-SC agreed with the IFSO-SC’s point, and agreed to change the recommendation into a format more consistent with other recommendations. The RIT-SC also agreed to consider merging this recommendation with RIT-Recommendation 15.

### **SSE-Recommendation 14:**

The FLM-SC recommended that the wording of this recommendation be changed to include “highly hazardous materials” instead of just hazardous materials as flammable liquids are hazardous materials. The SSE-SC agreed to rewrite this recommendation to include the phrase “highly hazardous materials.”

### **SSE-Recommendation 15:**

The SSE-SC suggested that the U.S. DOT update its pipeline safety regulations. The PDO-SC noted that the public attention is more focused on rail safety than on pipelines. Vice Chair Downey suggested that this recommendation be rewritten to acknowledge the presence of older pipelines and explain the problems that surround older pipelines.

### **SSE-Recommendation 16:**

The FLM-SC expressed concern over the phrase “meet or exceed the latest U.S. EPA emission performance standards.” The SSE-SC responded that the recommendation, as worded, encourages technologies that meet the latest emission performance standards, and allows private companies to exceed them where they choose to.

The SSE-SC agreed to rewrite this recommendation to include a broader discussion of technology research and to combine with the RIT-SC’s recommendations related to future technologies. The SSE-SC will rewrite this recommendation, and work with the RIT-SC on combining it with RIT-Recommendations 14 and 15, which also related to alternative fuels.

### **SSE-Recommendation 17:**

The SSE-SC asked how the greenhouse gas performance metrics suggested in this recommendation would be measured. The PDO-SC suggested that the RIT-SC’s work on measuring the effectiveness of pilot projects might align well with this recommendation. Vice Chair Downey commented that these two recommendations could be incorporated into one.

### **SSE-Recommendation 18:**

Vice Chair Downey suggested this recommendation be incorporated into the other NFAC streamlining measures as this recommendation deals with more effective permitting measures. The PDO-SC agreed to incorporate this recommendation into their bundle of streamlining recommendations. The SSE-SC agreed to this action under the condition that the aspects of community concern were adequately incorporated into the new recommendations.

### **RIT-Recommendation 17:**

The RIT-SC summarized that this recommendation intends to ensure that MPOs and State Freight Advisory



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Committees consider passenger travel and freight jointly, in order to make the transportation system more efficient.

The PDO-SC expressed concern for pushback from the trucking agency regarding the proposed use of high-occupancy vehicle (HOV) lanes during off-peak times. The SSE-SC explained, however, that there is underutilized capacity in these lanes. The RIT-SC agreed to revise this recommendation and make it more broad-based.

### **RIT-Recommendation 18:**

The committee encouraged the RIT-SC to work with the PDO-SO to coordinate their similar recommendations.

### **FLM-Recommendation 6:**

Three subcommittees requested further discussion of this recommendation. The CPD-SC expressed concern that the proposed requirement for a National Highway System designation may limit the scope of this recommendation too much. The FLM-SC agreed to expand the categories of roads eligible for the proposed funding programs, as many are rural and locally-owned roads.

### **[END OF DISCUSSION]**

Vice Chair Downey thanked the Subcommittees for their work and opened the floor for questions.

- IFSO-SC asked who would rewrite the recommendations. Vice Chair Downey responded that the Co-Chairs of each Subcommittee were to take the first round of edits. DFO Chromey suggested this question be tabled until after lunch, when a more defined process would be explained.
- FLM-SC made a general comment that funding had been a big topic in the recommendations and urged the group to focus on sustainable sources of revenue.
- FLM-SC announced that the mayor of Memphis, TN, pending NFAC approval, would like to host several subcommittees to look into first and last mile issues. The date had not been set.
- SSE-SC inquired about the specific date in July that the next committee would meet. DFO Chromey and Drake responded that they would work with Vice Chair Downey to find a general date to meet. Drake said the date would be finalized by sometime next week.
- PDO-SC suggested that in the introductory paragraph it be announced that different authors contributed so that the reader understands why there may be disjointed writing styles.

Vice Chair Downey recapped the dates mentioned earlier.

- Co-chairs must rewrite by April 4<sup>th</sup> and send all rewrites to Chromey.
- Draft chapters be completed by April 18<sup>th</sup> and sent to members one week prior to the public webinar.
- Tentative date for the public webinar is April 29<sup>th</sup>.

### **Public Comment**

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There was one member of the public who provided comment.

Doug Morris introduced himself as a prior police officer and current truck driver. He was responding to earlier discussion about cost of entry into the industry. He wanted the group to know that the profit margins are very small and the cost of insurance is quite high. He commented that less than one percent of accidents exceed coverage amounts and that entry level training was where the group needed to focus their energy and not on increasing barriers to entry.



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One NFAC member, Terry Button, responded that the majority of the trucking industry workforce is owner-operators and their goal is to be safe. He said it was important not to accuse them of something they are not.

Another NFAC member, Stacy Hodge of the New York City Department of Transportation, spoke about Vision Zero and said that education of entry level drivers was a big focus for her organization. She urged the group to not only look at the trucking industry in regards to safety but all drivers.

### Closing Remarks and Adjournment

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Vice Chair Downey reminded co-chairs that they have one week turnaround time for revisions. He requested volunteers for working on the recommendations and developing each of the Chapters.

Vice Chair Downey said that in regards to the twenty-first century planning process, Anne Canby would lead that effort. DFO Chromey would provide her list of members that expressed interest in this workgroup. He also suggested that they might work with the Department of Commerce in aligning their process.

Vice Chair Downey thanked everyone and adjourned the meeting at 3:00 PM.

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## **APRIL 29, 2014 – PUBLIC WEBINAR MEETING**

### Call to Order

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The public webinar meeting of the NFAC was held on April 29, 2014. Tretha Chromey, DFO, opened the public webinar and called the meeting to order at 1:14 p.m. EDT. DFO Chromey explained during her opening statement that this was a continuation of the conversation from the meeting held on March 25–26 in Washington, DC. She also summarized the roll call - 34 members were present along with 6 alternates – which took place during the pre-meeting. DFO Chromey introduced meeting web host, Kirse Kelley, who provide the participants details about the meeting format. The technical aspects of the web-room and call-in details were reviewed and participants were directed on how to receive assistance. DFO Chromey introduced Chair Ann L. Schneider and Vice Chair Mortimer L. Downey.

The webinar meeting was open to the public.

### Opening Statements

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Chair Schneider thanked the members for joining the webinar and for their work on creating the recommendations. Chair Schneider stated that the recommendations, when complete, will be a great accomplishment and will advise future national policy. She requested that people speak slowly as DFO Chromey would be making the changes to the recommendations as they are discussed during the live webinar. It was announced that while there would be no time for public comments during the webinar, comments were welcome to be submitted prior to the webinar. A Master's student studying homeland security from Penn State University prepared a written comment that has been provided for committee review.

Chair Schneider reiterated that the purpose of the webinar was the review the recommendations that were discussed in March. She emphasized the group stay focused on revising the recommendations and not to discuss whether or not the recommendation should be made. She once again thanked the committee.



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Vice Chair Downey thanked the group for their work and stated that the expectation for the next meeting in July was to discuss the Department's proposed legislation and other bills that have emerged at that time. Vice Chair Downey stated that they would be following the document tracking sheet prepared and distributed by DFO Chromey.

## Discussion on Chapter 1: Recommendations Related to Assessment of Barriers (B1-B43)

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Chair Schneider explained that the report followed the initial format; however, the writers of each Chapter grouped the recommendations by themes. The themes for assessment of barriers included:

1. Safety and Security
2. Funding
3. Streamlining
4. Harmonization of Policy, Regulation and Programs
5. Data, Research and Education
6. Technology Implementation

### 1. SAFETY & SECURITY

#### Summary

Joan Claybrook and Jeff Burns suggested adding safety to the introductory narrative for "Safety & Security". Claybrook highlighted that safety should be a priority for the whole industry. Burns suggested that "proven and verified technologies" should be added. Dan Keen, alternate for John Gray, questioned the use of the wording "enacted immediately". Numerous members discussed that the section was an introductory section and should lay the groundwork for the recommendations to follow and the introductory section itself should not read as recommendations. Jose Holguin-Veras said to soften the wording of "freight movement resulted in", and Burns responded that the causality comments shouldn't be made because there are no studies. Mr. Keen wanted to verify that the data in there was accurate. DFO Chromey revised the wording to read, "The safety of the transportation system has been, and continues to be cited as a top priority for the entire freight industry and Department of Transportation agencies, yet a wide gap remains between this priority and the reality of the yearly high average number of freight related fatalities and injuries. In 2011, there were approximately 5,000 fatalities and 100,000 injuries associated with freight movement where the majority are associated with freight delivered on highways and roadways. Proven and verified technologies and practices to improve the safety of our freight system are available to reduce the adverse impact of freight movement on the American public and freight workers both now and as we prepare for the projected steep increase in freight demand." Desire was to keep some numbers and proportionality but not have causation. The comment about new technologies was proposed to be changed to "are available" instead of must be adopted.

#### Recommendation B-2

Claybrook and Burns suggested that the mention of "cost/benefit" be removed from the recommendation. Two members responded that regardless of if it was in the recommendation, it was a reality of the industry. Claybrook said the statute for the Federal Motor Carrier Safety Administration (FMCSA) was that safety was the highest priority and she believed it should not be included as a result. DFO Chromey suggested "risk based analysis" instead of cost/benefit. There was no opposition however Claybrook proposed "considering cost". The majority settled on "where warranted from a safety standpoint considering cost".



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## **Recommendation B-4**

Claybrook and Burns suggested adding “Safety” before security and resiliency. There was no opposition.

## **2. FUNDING**

### **Recommendation B-7**

Stephen Alterman suggested that the Airport Improvement Program (AIP) was a specific program and should not be mentioned specifically. DFO Chromey asked if revised language was available. Fran Inman said the inclusion of AIP probably came from Karen Schmidt but agreed that tying the recommendation back to freight was a good idea. Previously AIP funding was moved to other purposes and the intent was to make sure it is used for freight. The suggestion was made to join with other recommendations. It was decided that adding wording to indicate cargo use and use for intended purposes. Another member reminded the audience that AIP is primarily for passenger. Agreement was reached to say “aviation-related purpose as authorized including cargo”.

### **Recommendation B-8**

Mike Tooley requested that it be noted that the recommendation was outside and beyond the highway trust fund. Another member suggested that the group did not understand the policy behind this recommendation and asked to table the wording changes until July. Another member wanted to wait until the new legislation came out before deciding on the wording. “Create a new dedicated fund” was suggested as alternate wording and implied it was outside of the highway trust fund. Dan Keen inquired how to provide an official note stating opposition to the recommendation. DFO Chromey responded that it would go in the Appendix. A concern was raised that if a new fund is created, would States lose access to old, existing funding and that that may not be a good direction to go in. DFO Chromey reminded the group that the recommendations should not be revised fully based on recent funding news, and the recommendations are for going forward and not just for the next four years. The addition, “create new dedicated fund for multi-modal freight projects” was accepted and added.

### **Recommendation B-10**

Claybrook and Burns requested that “lack of access to raw industry data” be added to the recommendation. During discussion it was decided that the recommendation concept be moved into the introductory section of data as it did not read like a recommendation. Majority approved the idea of moving it to the introduction but wanted the wording “raw or complete” instead of just “raw”.

### **Recommendation B-11**

John Gray requested the recommendation be discussed and asked why it was not discussed at the March meeting. Vice Chair Downey said it was emailed too late to be included on the agenda. Claybrook suggested adding “and infrastructure”. DFO Chromey asked if there were any objections. Two members expressed concern that the rail industry was not the only industry with first and last mile challenges. The suggestion was made to remove the “first and last mile” portion. Majority accepted the wording of, “The Short Line Tax Credit (“45G”) should be reauthorized permanently (or at least on a 5-year basis) for the efficient and effective capital and infrastructure deployment of these freight connectors.”

## **3. STREAMLINING:**

### **Summary**

Claybrook and Burns requested that the “three E’s” be clarified to explicitly state each “E”. DFO Chromey asked for objections and none were received. “Social equity, economic competitiveness, and environmental sustainability” was included.



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### **Recommendation B-12**

Tooley requested revising of text. The term “delivery” was changed to “project review”.

### **Recommendation B-13**

Anne Canby requested review of the recommendation as she felt it ignored the cumulative impact element, which is a main part of the National Environmental Policy Act (NEPA). Avery Grimes, alternate for John Fenton, disagreed. Vice Chair Downey said that in March he thought discussion was that it should be dropped. Vice Chair Downey said the group agreed to disagree and to remove it because it is really a legal matter. The original purpose of the recommendation was to imply that NEPA should apply equally to all applicants. Ashley Probart, alternate for Karen Schmidt, said the Freight Mobility Strategic Investment Board has also debated this same topic. DFO Chromey asked if there were any objections to dropping the recommendation. The recommendation was dropped.

### **Recommendation B-13 & B-14**

Canby expressed concern that there was conflict of recommendations B-13 and B-14, however, if B-13 has been dropped, there was no longer conflict. If the recommendation was to be retained, it was requested that “as discussed in Recommendation B12” be added after “the streamlining of environmental permitting” be added. There were no objections.

### **Recommendation B-15**

A typo was found. An additional “other” was removed from the recommendation.

### **Recommendation B-16**

Canby requested that additional clarification be added to avoid regulatory conflict. Kevin Brubaker wanted to include “impose similar categorical exclusion provisions for all U.S. DOT modal agencies...” as written in the revisions submitted to the committee. The recommendation was revised to read, “impose similar categorical exclusion provisions for all U.S. DOT modal agencies so that roadway, seaport, waterway, rail, and airport freight-related projects receive the same treatment regardless of the sponsoring agency within the U.S. DOT.”

### **Recommendation B-17**

An extra “an” was removed from the recommendation.

### **Recommendation B-18**

Tooley thought it was unclear how the description matched the recommendation. A request was made to delete the description as well as to delete “no-document” prior to Categorical Exclusions. Several members felt that there was a lack of understanding about this recommendation and that it should be removed. The majority wanted to drop the recommendation and revisit in July. This was moved to the “parking lot” for further discussion in July.

### **Recommendation B-20**

Canby expressed concern about a lack of staffing for self-certification. Also, the first sentence of the description was redundant and had to be removed. During discussion of recommendation B-21, it was decided to drop this recommendation.

### **Recommendation B-21**

Canby suggested adding FHWA provisions to the recommendation. She explained that there was something called advanced construction in highway but wanted to know if there was a more general term across industries. The suggestion was made to add “that have environmental clearance but are awaiting funding authorizations”.



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Rob Roberson asked if “approval” was better wording than “clearance”. Majority felt “clearance” was better. Pragati Srivastava, alternate for A C Wharton, said that she recalled that there was concern about this provision and was going to review her notes. Stacey Hodge agreed with Srivastava in that there was no consensus on B-20 or B-21 at the meeting at March. DFO Chromey said this recommendation was from the PDO-SC, and because neither Co-Chairs, Karen Schmidt and Fran Inman, were no longer on the webinar, if another member of the subcommittee could clarify and consider the full revision before striking. DFO Chromey reminded the members that there will not really be another opportunity to continue to revise recommendations. The members expressed desire to work through the wording because tabling it would result in removing it entirely. Discussion occurred about what the original language’s intent was but the majority said to drop recommendation B20 as it was too similar to B21. Changes in language to B21 to “Allow for ‘spend ahead’ provisions for projects that have environmental clearance but are awaiting funding authorizations prior to advancing to the next stage of project planning and delivery” made it acceptable to the majority.

### **Recommendation B-24**

Claybrook and Burns requested that streamlining should be done without any degradation to safety. The agreed upon wording reads, “The U.S. DOT should streamline the certification process for new products or practices that increase the safety of the freight system, and efficiency or sustainability of the freight system if an equal or greater level of safety results.”

## **4. HARMONIZATION OF POLICY, REGULATION AND PROGRAMS**

### **Recommendation B-29**

Alterman proposed an alternative recommendation that highlighted more generalized support of open skies for cargo. A question was asked about what “most liberal and flexible” meant. Rhonda Hamm-Niebruegge said the purpose was to encourage business at medium hub airports that have lost business. Several members expressed a concern that it became a slippery slope and could open doors that are not intended to be opened. For example, it may give international carriers advantages that are not intended. Vice Chair Downey said it seemed like only two members of the committee had enough knowledge of this topic to provide input and those two members disagreed. Another member suggested adding “while considering security and job impacts” and utilizing excess capacity. DFO Chromey suggested that close captioning captured the changes of removing the excess language and that the group should move on because there seemed to be general consensus.

### **Recommendation B-30**

Canby and Button requested that the recommendation not be so mode specific to rail. Rick Inclima suggested removing “rail” from B-30 as well as rail administration in the summary. Steve Brown, alternate for Andrew Lynn, said there was extensive discussion about this recommendation in the subcommittee about how it needed to be highlighted as a rail issue. Brad Hildebrand had sent an email and DFO Chromey said she would review the email and put into the recommendation. The email that was read aloud during the webinar tried to emphasize that original purpose of the recommendation was that they wanted to emulate the success at the Canadian border to the Mexican border. The process that was spelled out in B-31 allowed the subcommittee to reach consensus. DFO Chromey asked if B-30 and B-31 should be combined because they are dependent on each other. Majority decided that B-31 not be edited but highway be added to B-30.

### **Recommendation B-31**

Approved during discussion of B-30.





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### **Recommendation B-33**

Burns and Claybrook suggested that the recommendation raised a relevant problem but that it needed to be reworded into a recommendation. Majority suggested that the topics covered in B-33 be added into the introductory section.

## **5. DATA, RESEARCH, AND EDUCATION**

### **Recommendation B-34**

Claybrook and Burns suggested adding “the Department needs to address the inadequacy of...” to make it more of an action item. There was no opposition.

### **Recommendation B-35**

Keen suggested adding “to the extent that rail data is not proprietary data”. Burns added that the government should be able to get whatever data they want as long as it is adequately protected. Gen Giuliano suggested changing “the” to “that” in between “extent” and “proprietary”. The majority agreed upon, “Data collection needs to be comprehensive, coordinated among federal agencies and complete by including information from all freight infrastructure owners to the extent that proprietary data is projected.”

### **Recommendation B-38**

A revised recommendation was submitted by Holguin-Veras. The suggestion was made to include “research should include demonstration of technology as well as operational strategies” and “and beneficial operational practices that minimizes negative impacts on the communities, the environment, and safety while fostering economic productivity and efficiency”. Keen requested to add “could” in the first paragraph of B-38: “High priority areas could include . . .”, noting that there may be more possibilities that exist. The group agreed to revise the statement to read “high-priority areas include but are not limited to . . .” Holguin-Veras also suggested adding bullet “E” to say “identification and design of operational practices that minimize community impacts, improve environmental and safety conditions while fostering economic productivity and efficiency.” Giuliano opposed having the same sentence twice. Suggestion was made to include “including operator fatigue and hours of service regulations.” Claybrook asked if this meant to include government funded demonstration research projects. She continued by stating that trucking organizations have tried to use this in the past to get non-pure research to support motives. No other members expressed concern with the wording above.

Giuliano suggested that research be agnostic with respect to mode and also agnostic with respect to who is doing the research. They also wanted to add “competitively awarded, unbiased” federal research program and “peer reviewed”.

### Education and Training

Claybrook and Burns had concern about including the “90%” statistic and suggested removing the number and use descriptive terms instead. “High turnover” was the suggested term. Gary Palmer added that the industry has a people shortage not a training shortage. Several s felt there was a disconnect between the points that are being brought up in the introduction and the recommendations being made. The numbers were removed from the introduction.

### **Recommendation B-3**

During the discussion of the introductory section of “Education and Training”, the suggestion was made by several members to add “high school, colleges and universities, community colleges, vocational schools and workforce training and apprenticeship programs” to the recommendation. There was no opposition to that. DFO Chromey said the topic of workforce development was a topic that had just emerged and was not discussed



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in March. A request was made to discuss the topic of workforce shortages at the July meeting and have an ad-hoc committee look into this. The summary brought up topics that were not previously raised—it is a good suggestion but not something that can be solved in the webinar.

Chair Schneider agreed that it would be a good suggestion. The topic is not something that was originally brought up. Wording should be added to the introduction.

### **Recommendation B-40**

Claybrook suggested including “1) technologies to improve safety;”. Holguin-Veras and Blake Roberson, alternate for Craig Philip, had recommended changes but the group opted to adopt “10) technologies that support operational improvements”.

### **Recommendation B-42**

Two members not present at the webinar provided feedback on this recommendation, however, the theme that emerged was that there are many pilot programs conducted but the benefits are not necessarily tracked. Claybrook did not feel it was wise to invest in tracking when not all pilot programs are well designed. Several members disagreed but thought that “pilot programs” was simply too wide of a term. Maybe add “qualified researchers” to the terms. The suggestion was made to include “state and local level research”. Majority agreed.

### **[END OF DISCUSSION]**

Chair Schneider thanked the members and public participants for staying on the webinar. She explained that another webinar would be scheduled to complete the discussion on the remaining two chapters. Members will discuss next steps and DFO Chromey will announce the details in the Federal Register. Chair Schneider adjourned the public meeting just prior to 6pm EDT.

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## **MAY 29, 2014 – PUBLIC WEBINAR MEETING**

### **Call to Order**

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The public webinar meeting of the NFAC was held on May 29, 2014. Tretha Chromey, DFO, opened the public webinar and called the meeting to order at 1:05 p.m. EDT and welcomed the public, U.S. DOT staff, and NFAC s. DFO Chromey explained during her opening statement that this was a continuation of the conversation from the meeting held on March 25–26 in Washington, DC and of a follow-up webinar held online April 29, 2014. DFO Chromey noted that public comments for consideration by the Committee were due May 21, but none were received. She also summarized the roll call - 24 members were present along with 11 designated alternates – which took place during the pre-meeting.

DFO Chromey noted that the purpose of the webinar was to allow the Committee to continue its discussion of proposed recommendations for the Plan, including those related to improving the performance of the freight network and mitigation of community impacts. DFO Chromey noted that the webinar would be led by the NFAC Chair, Ann Schneider, and the NFAC Vice Chair, Mort Downey. DFO Chromey introduced meeting web host, Kirse Kelley, who provide the participants details about the meeting format. The technical aspects of the web-room and call-in details were reviewed and participants were directed on how to receive assistance. DFO Chromey introduced Chair Ann L. Schneider and Vice Chair Mortimer L. Downey.



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The webinar meeting was open to the public.

## Opening Statements

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Chair Schneider welcomed NFAC members and webinar participants. She thanked s for their hard work, and provided a brief recap of the NFAC’s process to develop its recommendations. She noted that the NFAC met in Washington, D.C., on March 25 and 26 to discuss proposed recommendations from its six subcommittees. Following that meeting, a report was developed capturing the recommendations, which was discussed during the webinar held on April 29. The May 29 webinar will continue the discussions from April starting with Chapter 2 of the draft report. Chair Schneider then asked Vice Chair Downey to provide some remarks.

Vice Chair Downey noted that he was looking forward to the discussion and asked that NFAC members focus on keeping the conversation moving as much as possible. He asked NFAC members to let him and Chair Schneider know if there were key recommendations that should be addressed first. Chair Schneider then asked DFO Chromey to share the tracking sheet in the webroom, which provided a framework for addressing the Plan’s draft recommendations.

## Discussion on Chapter 2: Recommendations Related to Best Practices for Improving the Performance of the National Freight Network (P1-P24)

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Chair Schneider recapped that the report followed the initial format and the writers for Chapter 2 grouped the recommendations into the following themes:

1. Funding
2. Streamlining
3. Data
4. Planning
5. Capacity Enhancements/Efficiency

### ***SUMMARY***

Chair Schneider began the discussion with a revision to the summary of Chapter 2. This revision was requested by Joan Claybrook and Jeff Burns. Chair Schneider provided an opportunity for Members to provide more background on this recommendation. Burns noted that he and Ms. Claybrook suggested revising the language of the summary to include the following sentence: “movement of freight is necessary but should not result in a reduction of health and safety of the American public or freight workers.” There were no objections. DFO Chromey made the suggested change in the document, noting that she would highlight in green those changes for which there were no objections from the NFAC members.

### **1. FUNDING**

#### **Summary**

Joan Claybrook and Jeff Burns suggested adding the following language to the second sentence of the funding paragraph in Chapter 2: “the safety of freight network users, including the largest user, the American public.” There were no objections.

#### **Recommendation P2**

The following members: Mike Tooley, Andy Lynn, and Anne Canby, submitted comment to this recommendation. Canby clarified that her suggestion was to include rail in the recommendation, in addition to its reference to domestic and feeder waterborne service routes. Vice Chair Downey responded that the



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recommendation was specific to the National Highway System (NHS) so perhaps including rail was inappropriate. DFO Chromey confirmed that the recommendation should be left as is. There were no objections.

Vice Chair Downey noted that Lynn had provided comments to add supporting justification language to recommendation P2. Steve Brown, designated alternate for Lynn, provided context to the Port Authority's comment. The comment related to expanding the definition of what is included as part of the NHS and investing in high-return opportunities. A discussion ensued about whether to add this language to recommendation P2. John Gray stated that he would prefer not to include the supporting justification language since it might imply a need for contributing funds. Canby said that she thought the addition was appropriate, but was not sure whether the NFAC had the ability to request a statutory change to the NHS. DFO Chromey noted that the NFAC could suggest to U.S. DOT that it work with Congress, but could not on its own request any statutory change since the NFAC recommendations are to the Department. Vice Chair Downey agreed that it was important to encourage the Department to work closely with Congress on the issue. Karen Schmidt suggested removing the phrase related to taking trucks off congested highways, since this could be construed as "demonizing" one mode over another. Genevieve Giuliano stated her concern that referring to the NHS in the recommendation supporting language might imply that the Highway Trust Fund (HTF) would be a major source of available funding, which could be problematic given the state of the HTF. Gray expressed concern that being part of a designated NHS could imply that railroads might be asked to provide funding to the designated system or to the HTF, which may not be a desirable outcome. Brown stated that the purpose of the supporting language was to make highway funding available to multiple modes through designating a national freight network. Vice Chair Downey noted that from the rail perspective, railroads may not want specific routes and lines identified in a designated network. Chair Schneider stated that her understanding of the proposed supporting language was that it emphasized the need for a new mechanism for freight funding that could allow multimodal freight projects to qualify for funding under programs that are multimodal in nature. Vice Chair Downey suggested taking out the language related to the NHS to allow for a more general reference to multimodal projects. Randy Mullet stated that the trucking industry would be concerned about adding new obligations to the HTF. Paul Kelly stated that he felt it was unnecessary to include the phrase "take trucks off of congested roadways" in the supporting language. Several s agreed. To capture these suggestions, Vice Chair Downey suggested adding more general language to the supporting justification such as "projects and modes" as opposed to "taking trucks off the highway."

Chair Schneider then referred to a suggestion made by Kevin Brubaker, which suggested speaking more generally about how the U.S. DOT should work with Congress to establish a Transportation Trust Fund that invests across modes.

DFO Chromey asked whether the recommendation or the justification language needed to be changed. She also noted that Mr. Tooley—who had provided the initial suggestion to revise the recommendation—was not present on the webinar. Kelly stated that there seemed to be agreement about removing the phrase "taking trucks off the congested highway." To capture the above discussion, DFO Chromey deleted the phrase as well as the recommendation language. She replaced it with: "U.S. DOT should work with Congress to establish a Transportation Trust Fund that invests across modes." Gray reiterated that he does not want to be part of any trust fund. Chair Schneider stated that she did not feel the revised language would require the railroads to be part of a trust fund. Steve Alterman suggested that airlines would be concerned about establishing a multimodal trust fund without having more information about how it would be developed or used, and particularly how it would benefit the air mode. Stacey Hodge suggested keeping the language general and focusing on the main



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theme of expanding funding across modes. Chair Schneider stated that the justification language should be removed. Rick Inclima suggested taking the first sentence of P2 as the recommendation and deleting the second sentence. Hodge stated that the intent of the language was not to “point” at any one particular mode. Inclima responded that there should be an alternate term for “congested roadways.” Vice Chair Downey suggested changing the term “regulations” to “policy” in the first sentence of the recommendation.

Chair Schneider suggested the following to encapsulate all of the discussion and suggestions mentioned above: “revise federal policies to incentive the efficient and effective use of available funding for freight projects.” The changes were made and accepted.

### **Recommendation P-3**

DFO Chromey read comments submitted by Tooley since he was unable to participate. Tooley proposed striking the word “funding” in the recommendation and replacing it with “funding for new program not part of the Highway Trust Fund.” DFO Chromey then read the rest of Tooley’s statement, which suggested revising the recommendation to clarify that it is not part of the HTF. Tooley commented that States are already focused on state of good repair projects for highways and it is not clear if recommendation P3 calls for rail funding from the highway program, which would be challenging given the state of the HTF.

Inclima suggested addressing a typo in P3: changing “accepted” rail track to “excepted” rail track.

Chair Schneider asked if members had opposition to Tooley’s suggestions. Canby asked how a new program not part of the HTF would be funded and expressed confusion about Tooley’s suggestions. Inclima stated his concern about removing any reference to the HTF from the recommendation because this may make the recommendation too broad. DFO Chromey stated that she was texting Mr. Tooley to try and get clarification on his suggested revision. Vice Chair Downey suggested replacing the term “funding” with the following phrase: “with a priority toward state of good repair and asset management.” There were no objections. DFO Chromey made the change.

Chair Schneider noted that she received an emergency call and needed to leave the webinar. Vice Chair Downey chaired the rest of the meeting.

### **Recommendation P-4**

Vice Chair Downey read comments from Tooley, which expressed a concern that expanding a grade crossing program could come at the expense of other activities, and suggested the following proposed language: “Maintain the 23 USC 130 program for rail-highway grade crossing improvements; it should grow proportionately with the Federal highway program as a whole.”

DFO Chromey added this language and asked if there were any objections to making this change. Mullet noted that when drafting the plan, NFAC members had emphasized prioritization and ranking systems to help identify key freight needs. Mullet expressed concern that including the phrase “it should grow proportionately” for the 130 grade crossing program indicated that there was no need for prioritization or ranking. Schmidt expressed support for the 130 grade crossing program given the increased pressure on communities from growing rail traffic. Fran Inman stated that grade crossings are also a significant issue in her community and asked if there was a compromise to address Mullet’s concern. Brubaker suggested moving the discussion about the 130 program (grade crossings) into the community impacts section of the report. Vice Chair Downey asked if there were any objections. Mullet reiterated that he is not objecting to the 130 program, but just to the phrase “grow proportionately.” Vice Chair Downey asked if the discussion about the 130 program could be moved to the



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community impacts section and suggested adding the following phrase: “provide adequate funding to meet community concerns.” Canby suggested adding “safety” to the phrase as well. There were no other comments.

### 2. STREAMLINING

#### Recommendation P-9

The next comment for discussion was submitted by Terry Button. Since he was not present, Vice Chair Downey read Button’s comment that was provided in advance of the webinar. The comment stated: “can it be done sooner?” Vice Chair Downey stated that he did not understand the comment and suggested leaving the recommendation as is and moving on to the next recommendation.

### 3. DATA, RESEARCH, AND EDUCATION

#### Recommendation P-13

Members Canby, Claybrook, and Burns requested discussion. Canby suggested that the recommendation refer to statutory language that says that U.S. DOT can collect proprietary data as long as it is protected. Burns suggested adding the word “objective” in front of “third party organizations” and “raw and complete” in front of “data collection agreements” to avoid selective survey data collection. There were no objections to the revisions.

### 4. PLANNING

#### Recommendation P-14

Jose Holguín-Veras, Tooley, Canby and Blake Roberson, designated alternate for Craig Philip requested discussion. Canby clarified that the suggestion was to incorporate the concept of supply chains into the recommendation. Vice Chair Downey suggested adding the term “supply chain” into the recommendation bullets that could be woven in at some point. He reviewed comments that Tooley had prepared in advance of the webinar on the recommendation, noting that the essence of the comments was that the language should take a more neutral approach. Holguín-Veras suggested accounting for minimizing impacts to the environment in the recommendation statement. Vice Chair Downey suggested removing recommendation P14 part d) as it seemed redundant with part a); he then suggested moving on to recommendation P15.

#### Recommendation P-15

Canby clarified her question regarding how streamlining planning reporting requirements would lead to multimodal planning. Vice Chair Downey suggested that the word “streamlining” be removed. Canby suggested adding phrasing that encourages U.S. DOT to work with modal administrations to streamline the planning process to ensure that a multimodal freight perspective is reflected in long-range planning. DFO Chromey referred back to an item previously discussed and agreed upon by the NFAC about a workgroup approach. She asked whether this group could help the U.S. DOT implement a multimodal freight planning process. Canby agreed. Inman suggested that the phrase “integrated planning” be used instead of multimodal planning. Holguín-Veras and Canby agreed. Schmidt suggested that jurisdictions may have a different definition of freight and first and last mile was a significant issue; she suggested that U.S. DOT come up with non-prescriptive guidelines for what it considers freight and first and last mile. Canby agreed. DFO Chromey added the following to capture the previous comments: “U.S. DOT should work on developing an integrated planning approach for freight, which includes definitions of freight terminology including terms such as freight, first and last mile.” DFO Chromey suggested that the specific language of this added phrase could be edited at a later point. She also clarified that the phrase “integrated planning” could replace “multimodal planning” throughout the recommendation during the editing phase.



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### **Recommendation P-17 & P-18**

Canby had previously suggested that these recommendations seemed to overlap. Vice Chair Downey clarified that they do overlap, but have two different purposes and should be kept separate. Canby said this was satisfactory.

### **5. CAPACITY ENHANCEMENTS/EFFICIENCY**

#### **Recommendation P-20**

Gray commented that encouraging utilization of marine highways is fine, but that he would like to see “unsubsidized” added to the recommendation. He noted that subsidized competition is not preferable. Vice Chair Downey noted that NFAC cannot rule out subsidization. Gray responded that in that case the recommendation becomes problematic. Vice Chair Downey asked if there were further comments from other members. Brubaker noted removing all subsidies across all modes is an interesting topic, but he is not sure how the NFAC could address this. Inman suggested that the essence of the recommendation was to emphasize utilization of marine highways where it makes sustainable sense, and asked if there was language that could be added to encourage utilization of all opportunities across all modes. Gray clarified that he is not asking for all subsidies to be removed, but he does not want to explicitly recommend a policy of developing a new subsidy. Giuliano suggested that the NFAC seemed to be articulating only two specific strategies when in actuality there are likely to be many different strategies that could increase the efficiency and utilization of capacity. She suggested broadening the language of the recommendation. Gray concurred. Inclima suggested removing specific references to marine transportation to emphasize a more multimodal approach. To address these comments DFO Chromey removed “marine highways” and added “all modal opportunities.” She then asked whether the reference to increasing the use of off-peak cargo movements should stay in the recommendation. Inclima said that increasing cargo movements seemed to be an example of a different approach, but still had a common goal of expanding capacity of the freight system. Holguín-Veras suggested adding another example of reaching this common goal. David Eggerman, designated alternate for Karen Flynn, suggested substituting “all available operating processes” instead of off-peak cargo movements, since there were many things beyond off-peak cargo movements that could change capacity. DFO Chromey suggested the following rewrite: “Expand the capacity of the freight system by encouraging the effective utilization of all modal and operational opportunities.” Hodge suggested that a reference to off-peak cargo movements was too specific, though off-peak cargo movements could help increase the capacity of the freight system. DFO Chromey suggested adding “(e.g., off-peak cargo movement)” at the end of the recommendation to provide an example.

#### **Recommendation P-22**

Brown had requested a revision to add supporting language to the recommendation. He clarified that the suggestion was to add detail on the manifest system back to recommendation P23 but that no further changes were being suggested for P22. Inman suggested removing the reference to “state of the art” from the recommendation language.

#### **Recommendation P-23**

Brown stated that they would like to add reference to the “e-manifest system” to the recommendation P23 supporting language, clarifying that this language had been initially attached to P22, but it would work better in P23. He noted that the language should appear in a separate bullet. Inclima stated that he is not in support of the bulleted list included in the recommendation’s supporting language, since most of the other recommendations do not include such a list. Brown noted that the language referring to the e-manifest system had been initially included in the list and vetted by the NFA and is now suggesting adding back in what was



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already there. Inclima noted that in a version of the draft report he was looking at, the language did not appear and expressed concern about version control. DFO Chromey clarified that the language was included in the draft report prepared for the March meeting, but was left off the April report. Inclima noted that he was not in support of the bullets that referenced supporting coordination with Mexican and Canadian counterparts since there were already other initiatives focused on these activities. Vice Chair Downey asked if these bullets could be dropped; Inclima concurred. Brown agreed this was satisfactory. Kelly suggested removing the reference to truck pre-inspection clearance in another bulleted item, as this is already a current requirement. Mullet suggested that the bulleted items should include language that the U.S. DOT should work with appropriate stakeholders since many items were not within U.S. DOT's purview. DFO Chromey removed the bullets referencing Mexican and Canadian counterparts, and removed the bullet on truck pre-inspection clearance.

### **Recommendation P-23 & P-24**

Button had submitted comment in advance that the two recommendations appear to overlap. Vice Chair Downey stated that he did not think the recommendations had significant overlap. Alterman questioned whether it was within the purview of the NFAC to recommend to the U.S. DOT an action for the Department of Homeland Security (DHS). Vice Chair Downey agreed and suggested that the recommendation should focus on actions for the U.S. DOT. Inclima suggested that the U.S. DOT approach DHS with their recommendations rather than state what the DHS should do. Inman stated that the word "efficient" should be added to recommendation P24 and questioned whether the phrase "detailed and uniform" in the recommendation was appropriate, since it might imply that the current process is not efficient. To address the previous comments, DFO Chromey changed the recommendation to say that "U.S. DOT should work with DHS to establish detailed and uniform..." She then removed the word "should" where it was referenced in other parts of recommendation P24; she also added "efficient" to the phrase "detailed and uniform" so the new phrase read: "detailed, uniform, and efficient inspection procedures." Inclima suggested removing the word "uniform" since there could be different procedures used by different modes. Vice Chair Downey noted that in some situations a non-uniform procedure could be the preferred approach. DFO Chromey removed the word "uniform" from the phrase.

### **Discussion on Chapter 3: Recommendations Related to Best Practices to Mitigate Community Impacts (C1-C17)**

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Vice Chair Downey stated the Chapter 3 recommendations were grouped into the following themes:

1. Safety
2. Environmental Sustainability
3. Funding
4. Harmonization, Standards and Institutional Arrangements
5. Data, Research, Education and Reporting
6. Infrastructure Design
7. Regulation and Enforcement
8. Technology Implementation (Development, Demonstrations, Deployment)

### **SUMMARY**

Burns and Claybrook suggested removing the word "industry" in the summary and replacing it with "all stakeholders." There were no objections. DFO Chromey made the suggested change.

### **1. SAFETY**





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## Summary

Burns and Claybrook suggested adding the phrase “create new safety regulations” to the second sentence in the safety header. Vice Chair Downey asked if the word “update,” which already existed in the header language, implied creating new regulations when necessary. Alterman asked if a better phrase might be “revise safety regulations.” Member Burns stated that the essence of the header language was to ensure that U.S. DOT kept up to date with safety regulations so he did not have a strong feeling about whether to use the word “revise.” Mullet suggested removing the phrase “more frequently” from the safety header and instead suggested to use the phrase “as appropriate.” To address the comments DFO Chromey added the phrase “create new safety regulations” to the first paragraph of the header and added “as appropriate” to the second paragraph to replace the phrase “more frequently.”

## Recommendation C-1

Gray stated that the basic recommendation was satisfactory, but expressed a concern that the recommendation language tended to be editorial and “pointed” to certain modes over others. Gray suggested retaining the first sentence of the recommendation’s supporting language up until the phrase “being safely transported through communities” and striking the other words from the justification. Other members agreed. DFO Chromey made the suggested change.

## Recommendation C-2

Burns and Claybrook had submitted a comment. Burns clarified that the comment was to replace the phrase “movement of freight as an ultimate vision” with “goal with a sense of urgency.” DFO Chromey added the phrase “goal with a sense of urgency” to the end of the recommendation language, but retained the phrase about “ultimate vision” noting that this had previously been agreed to. Burns stated that this was satisfactory. Gray questioned the use of the term “tolerance” in the recommendation because it implied there would be an immediate reaction to a fatality that might close down the freight system; he suggested using the phrase “zero fatalities.” DFO Chromey made the change, removing the term “tolerance.” Burns also suggested replacing the words “with in NFAC” with “within NFAC.” DFO Chromey made the change.

## 2. ENVIRONMENTAL SUSTAINABILITY

### Summary

Burns clarified that the joint comment from him and Ms. Claybrook was to suggest replacing the phrase “working collaboratively with industry” with “working collaboratively with all stakeholders.” DFO Chromey made the change.

### Recommendation C-3

Terry Button had submitted a comment in advance; however, Doug Morris, designated alternate for Button, was not familiar with the comment or its intent. Vice Chair Downey recommended moving on to the next suggested recommendation for discussion.

## 3. FUNDING

### Recommendation C-4

Canby and Tooley submitted comments and request for discussion. Canby clarified that she was not sure whether the recommendation language should reference a special program for first and last mile connectors, or whether this could be highlighted within a freight program should there be one, or else in the NHS; she also noted that there are rail first and last mile connectors. Vice Chair Downey stated that the recommendation was broad and asked whether listing specific programs in the supporting language makes the recommendation too



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narrow. Canby agreed and responded that she was concerned about focusing on one mode and including a limited list of programs in part a) of the recommendation. She also noted that referencing a separate federal credit program, which appeared in part b) of the supporting language, might not be a good approach and could be removed. Vice Chair Downey asked whether the phrase “set-aside for NHS” could be struck from part a) of the recommendation. DFO Chromey made this change and removed the phrase “a new federal credit program” in part b) of the recommendation’s supporting language. Giuliano suggested that first and last mile connectors are not the only issues to consider in the recommendation; perhaps more significant are through-traffic issues and freight in urban areas. Inclima suggested either removing the phrase “in order to help address this issue” in the first part of the recommendation or adding language to clarify what “this issue” refers to. Vice Chair Downey noted that it refers to the previous paragraph and suggested that this could also be a place to add references to issues suggested by Giuliano, such as urban freight movements. DFO Chromey added a placeholder to suggest a later edit that would help clarify what “this issue” refers to. Hodge commented that she would like to retain a recommendation about first and last mile connectors or farm-to-market connections since this is particularly important for local stakeholders. Vice Chair Downey acknowledged this comment. DFO Chromey added a reference to the end of the recommendation to work with Vice Chair Downey on revising the language to incorporate these issues.

### **4. HARMONIZATION, STANDARDS AND INSTITUTIONAL ARRANGEMENTS**

#### **Recommendation C-5**

Burns and Claybrook suggest to revise the phrase “maximize resources” to say “solutions that maximize the safety and utilization of resources.” DFO Chromey made the change, but Canby asked whether energy issues, community impacts, funding issues, and others should be referenced as well in the recommendation. Gray expressed a concern about the term “maximize” and noted that maximization might depend or change based on one’s perspective. Vice Chair Downey suggested the phrase “effective utilization” instead. DFO Chromey made the following change: “...maximize safety and effective utilization of resources while minimizing environmental and energy impacts when considering local impacts...”. DFO Chromey also noted that a sentence that talked about minimizing impacts when considering impacts seemed to be redundant. Burns suggested combining the terms. DFO Chromey changed the phrase to “...minimizing environmental, energy, and local impacts.” Alternate Sean Kildare, for Claybrook, suggested replacing the phrase “all agents” in the supporting language with the phrase “all stakeholders.” Holguín-Veras suggested making “supply chain” plural. DFO Chromey made the suggested changes. Holguín-Veras also suggested adding a reference to “community representatives” after the reference to metropolitan planning organizations (MPOs) and regional planning organizations. Vice Chair Downey noted that this might be redundant because MPOs are already required to reach out to community representatives and to have community involvement. Kildare noted that the revised opening sentence of the supporting justification already mentioned “all stakeholders” and perhaps this covered community representatives. Burns said that the language as is was satisfactory.

### **5. DATA, RESEARCH, EDUCATION AND REPORTING**

#### **Recommendation C-7**

Burns proposed to add “impacts on the health and safety of the American public and freight workers” in front of “first and last mile.” Schmidt noted that the NFAC’s mission was focused on freight so any reference to freight should appear before a reference to environmental issues. DFO Chromey said that she was not sure where Schmidt’s comments fit in; Schmidt responded that she was not sure whether her comments were directed to recommendation C5 or C7. Vice Chair Downey commented that nothing in C7 ties this recommendation to freight planning. Hodge suggested inserting “minimize” or “reduce” between “issues and impacts,” though



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Burns said that “impacts” captures the idea of reducing impacts. Burns also suggested removing “and” before “parking.” DFO Chromey returned to the comment regarding the absence of a reference to freight. Hodge suggested inserting “for freight” between “best practice” and “toolkits” to clarify that this recommendation is about giving people the resources they need to do better planning. Another member suggested “toolkits for freight planning” and Canby proposed, “best practice toolkits for freight.” Kelly observed that the Committee’s focus is on addressing issues related to moving freight, but that this recommendation emphasizes safety and environmental considerations above freight issues. Hodge responded that the latest edits address that mismatch and Burns stated that safety is the Secretary’s highest priority. Giuliano made two specific comments: first, the audience for the toolkits will be broader than urban planners and regulators; second, freight-related congestion is not necessarily first-and-last mile. Hodge emphasized the need to focus on farm-to-market issues and to support cities and counties with tools for addressing urban freight issues. Vice Chair Downey reminded the Committee that Chapter 3 focuses on community impacts. Giuliano recommended replacing “available to” with “for,” replacing “seeking to” with “that seek to,” and changing “first and last mile” with “freight-related.” Mark Savage recommended changing the final clause to “safety of transportation professionals and the American public” by removing “freight workers.”

### **Recommendation C-8**

Regarding part d) of the recommendation, Burns proposed changing “driver hours regulation” to “operator fatigue and hours of service regulations.” Mullet confirmed that all modes use term “hours of service,” and that it doesn’t only apply to the trucking industry. Holguín-Veras recalled an earlier comment regarding beneficial practices to minimize negative impacts on communities and the importance of discussing the practices that accompany new technologies. DFO Chromey responded that she would make sure there is consistency between recommendations C8 and P1. DFO Chromey asked if there were any additional changes to this recommendation and its sub-sections. Holguín-Veras proposed a new part h) as “identification and design of operational practices that minimize community impacts, improve environmental conditions, while fostering economic productivity and efficiency.” Inman commented that based on her agency’s experience in litigation regarding these issues, part e) is not effective. Vice Chair Downey responded that from a research standpoint, it is worth recommending that the U.S. DOT address this issue, which is regulatory and economic in nature, to understand how it is factored into contracts. Burns clarified that part e) simply highlights an existing issue without making a specific recommendation of how to address it and he stressed the importance of evaluating how compensation structures affect safety outcomes. Other committee members agreed with Burns. Alternate Kevin Lynskey, for Carlos Gimenez, presented a draft recommendation regarding broadening the use of natural gas, such as through installing fueling infrastructure for trucks along freight corridors, based on an initiative undertaken in Canada to subsidize the construction of liquid natural gas (LNG) fueling stations along an 800-mile freight corridor. DFO Chromey clarified that the recommendation is for U.S. DOT to encourage the establishment of natural gas infrastructure and that the proposed language might fit under the existing B38, B40, or C8 recommendations. Vice Chair Downey suggested adding it under C8 as part i) but Canby noted that the proposed language was the same as the existing language in part a) of the recommendation. Vice Chair Downey responded that it might be possible to abbreviate the proposed language and to expand part a) to include the idea of developing alternative fuels and alternative fuel infrastructure. Lynskey emphasized that an abbreviated version should include the proposed language regarding the placement of fueling stations. Mullet stated opposition to inserting the proposed language, citing that he objected to adding a new recommendation at this time and to the recommendation itself. Vice Chair Downey noted the lack of consensus in adding this language. Inclima countered that the proposed language was in line with the core of the recommendation because the installation of alternative fueling stations would achieve efficiencies and reductions in environmental impacts.



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Vice Chair Downey proposed modifying the existing part a) to read “Alternative fuels and supporting infrastructure.” Lynskey suggested adding “at regular intervals along freight corridors.” Mullet again objected to the recommendation and Vice Chair Downey responded that this recommendation could fall under a research area rather than applying to a programmatic approach. Hodge expressed support for the addition and several other committee members concurred with the idea of including this language as part of research. Vice Chair Downey proposed that part a) should begin, “Alternative fuels and supporting infrastructure in strategic locations.”

### **Recommendation C-9**

Gray expressed concern in endorsing various whistleblower programs because in his experience they frequently lead to litigation that delays improvements to safety; however, he did endorse the concept of improving labor management coordination that can improve safety and suggested changing the recommendation to “Improve effectiveness of mechanisms in all modes through improved awareness, education, and encouraging greater labor/management coordination to improve safety.” Inclima disagreed with the change and clarified that the purpose of whistleblower programs is to provide an opportunity for workers to raise safety issues and to have protection from retribution or retaliation. Inclima further emphasized that he did not support removing “whistleblower” from the recommendation and stated he would submit a minority report. Burns observed that the laws are already in effect and asked whether the objection was to encouraging further legislation. Vice Chair Downey agreed that this recommendation encourages the use of the current laws, not a change to existing laws or the addition of new ones. Burns provided background on the Safety, Security, and Environment Subcommittee’s development of this recommendation and clarified that the intention is to improve the effectiveness of existing whistleblower protection. Vice Chair Downey suggested modifying the recommendation to clarify its focus on existing law and Burns proposed changing “various ‘whistleblower’ act safety” to “existing ‘whistleblower’ safety provisions for.” Inclima suggested the recommendation begin “Improve effectiveness of various ‘whistleblower’ reporting protection mechanisms.” Gray proposed changing the opening to “Improve effectiveness of existing safety reporting mechanisms,” but Inclima objected to removing “whistleblower.” Hodge expressed support for keeping “whistleblower” in the recommendation because it is a word universally recognized and understood. Vice Chair Downey suggested that DFO Chromey rewrite according to the proposed changes and Gray may submit a minority comment for consideration.

## **6. INFRASTRUCTURE DESIGN**

### **Recommendation C-10**

Burns read his proposed revisions to the first sentence: “Develop definite first and last mile delivery networks to expand intermodal delivery options and clearly designate truck routes to optimize safety and system performance and reduce community and environmental impacts.” Hodge supported the proposed revisions and suggested removing the reference to New York City. Schmidt asked whether this recommendation applies to the Department or to State DOTs; and, Canby asked which agency would be responsible since some truck routes have mixed ownership. Hodge clarified that this recommendation applies to State DOTs, MPOs, and other local agencies that might need to coordinate with one another. Michelle Livingstone commented that “intermodal” limits to only certain modes while Schmidt commented that “first and last mile” has different meanings in the context of a city than it does in the context of a single port. Hodge suggested changing “definite first and last mile delivery networks” to “definite freight delivery networks” and inserting “U.S. DOT should support development of” at the very beginning of the recommendation. Holguín-Veras seconded Livingstone’s comment regarding deleting “intermodal.” Burns responded with a suggestion to change “expand intermodal delivery options” to “expand delivery options across all modes.” Holguín-Veras accepted that edit. Canby



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noted the importance of considering rural issues, not just urban issues, but Hodge clarified that in removing “first and last mile,” the Committee addressed that concern. Giuliano observed that the summary paragraph immediately preceding the recommendation discusses truck issues, so that it would require revision to be in alignment with the recommendation now addressing multiple modes. DFO Chromey said that she would work on the opening statement with Chair Schneider and Vice Chair Downey.

### **7. TECHNOLOGY IMPLEMENTATION (DEVELOPMENT, DEMONSTRATIONS, DEPLOYMENT)**

#### **Recommendation C-15**

Vice Chair Downey stated that Holguín-Veras had requested to add the same language (“and beneficial operational practices that minimize negative impacts on communities and the environment, while fostering economic productivity and efficiency”) that he had proposed as an addition to recommendations B38 and C8 as well. DFO Chromey indicated she would use the language previously used to be consistent. There were no objections.

#### **[END OF DISCUSSION]**

Vice Chair Downey asked if there were other comments or issues the Committee wished to discuss. In response to a question from Jeff Burns, Vice Chair Downey confirmed that the full text of minority reports would be submitted. In addition, members conducted an open discussion on the following recommendations and next steps.

#### **[OPEN DISCUSSION]**

#### **Recommendation C-11**

Gray proposed adding, “without encroaching on freight right-of-way” at the end of the first sentence. Giuliano commented that the recommendations pertaining to Regulation and Enforcement should relate to U.S. DOT supporting the policies, distributing information about them, highlighting best practices, etc., but stated that it is not within the purview of the federal government to develop or implement those policies. Vice Chair Downey responded that the recommendations under this section heading are intended to highlight issues for U.S. DOT’s awareness. Canby added that Titles 23 and 49 include items that State DOTs and MPOs should consider in the planning process. Hodge also clarified that the intent is for U.S. DOT to incentivize certain practices at the local level and Vice Chair Downey proposed revising the header paragraph to reflect the idea of U.S. DOT considering how to incentivize best practices in this area.

#### **Recommendation B-18**

Inman clarified that this recommendation was not intended to compromise the existing environmental review process, but to simply reduce project delivery delays for those projects with approvals in place. Vice Chair Downey noted that following MAP-21, there have been several proposed rulemakings to expand categorical exclusions (CEs). Vice Chair Downey proposed editing the recommendation to “To continue to explore the ‘section (c) CEs’ for highway, bridge, and grade-separation projects beyond those provided in MAP-21 rulemaking.” Canby suggested including port-related projects as well, but Vice Chair Downey responded that recommendation B16 captures those projects. Brubaker expressed his support as long as the recommendation is to consider CEs generically as a means of expediting project delivery – and not to identify specific projects or categories worthy of exclusion. One member recommended further revising the recommendation to “for roadway, seaport, waterway, rail, and airport freight-related projects” and several members proposed removing the first “to” so that the recommendation opened with “Continue to explore.”



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### Recommendation B-21

Inman clarified that this recommendation assumes that all approvals are in place and that a project is simply awaiting appropriation. Vice Chair Downey clarified that this recommendation would allow projects with all appropriate clearances to begin sooner (at their own financial risk) than the appropriations are in place. Canby requested that language be added to clarify that “all necessary approvals have been received.” In response to a question from Brubaker, Inman stated that this recommendation was not intended for transportation agencies to force the hand of appropriators, but rather the transportation agencies would be taking the risk that if the appropriators did not appropriate, then they would not be reimbursed for any expenses incurred. There were no other objections.

### Recommendation P-21

Alterman proposed replacing “deployment of NextGen technology” with “development and implementation of airspace modernization” to clarify that the recommendation applies to technology beyond NextGen. Brown suggested inserting “(e.g., NextGen technology)” and Alterman revised to “(e.g., NextGen initiatives).”

### Next Steps

In response to a question from Inclima, Vice Chair Downey said that the Committee would receive the revised Part II, which would include the revised recommendations for Chapters 2 and 3. Vice Chair Downey clarified that the Committee would also receive a consolidated document with all the final recommendations.

Vice Chair Downey asked for additional comments or edits; hearing none, he thanked the participants for their time and made a motion to adjourn the meeting. Inman seconded the motion and several other members concurred. Vice Chair Downey adjourned the public meeting just prior to 4:30 pm EDT.

## Appendices

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The information provided to the public is available on the NFAC website.

- [March 25-26, 2014 Meeting Materials](#)
- [April 29, 2014 Meeting Materials](#)
- [May 29, 2014 Meeting Materials](#)

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We hereby certify that, to the best of our knowledge, these minutes of the NFAC on March 25-26, 2014, April 29, 2014, and May 29, 2014 are accurate.

Handwritten signature of Ann L. Schneider in blue ink.

Ann L. Schneider  
Chair

Handwritten signature of Mortimer L. Downey, III in blue ink.

Mortimer L. Downey, III  
Vice Chair

Handwritten signature of Tretha Chromey in blue ink.

Tretha Chromey  
Designated Federal Officer