



**Surface Transportation Board**  
Washington, D.C. 20423-0001

Office of the Chairman

July 1, 2019

The Honorable Susan Collins  
Chairman  
Senate Appropriations Subcommittee on  
Transportation, Housing and Urban  
Development, and Related Agencies  
S-128, The Capitol  
Washington, DC 20510

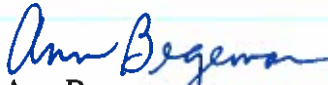
The Honorable Jack Reed  
Ranking Member  
Senate Appropriations Subcommittee on  
Transportation, Housing and Urban  
Development, and Related Agencies  
S-128, The Capitol  
Washington, DC 20510

Dear Chairman Collins and Ranking Member Reed:

On behalf of the Surface Transportation Board (STB or Board), I am pleased to provide the Board's second quarter 2019 Report on Pending STB Regulatory Proceedings in accordance with Section 15 of the Surface Transportation Board Reauthorization Act of 2015. This report, along with the quarterly reports on rate case review metrics and formal and informal service complaints, will be posted to the Board's website at <https://www.stb.gov/stb/rail/ReauthorizationAct.html>.

Thank you for your continued interest in the Board and its work. If you or your staff have any questions, please contact me at 202-245-0204.

Sincerely,

  
Ann Begeman  
Chairman

**Report on Pending STB Regulatory Proceedings  
Second Quarter 2019**

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**Surface Transportation Board**

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**1. Review of the General Purpose Costing System**

**Popular Title:** Review of the General Purpose Costing System

**RIN 2140-AB14**

**Stage:** Discontinued

**Previous Stage:** NPRM served 2/4/2013; End of Comment Period 9/5/2013; SNPRM served 8/4/2016 (published in Fed. Reg. 8/10/2016); End of Comment Period 11/7/2016; Proceeding Discontinued 6/6/2019.

**Abstract:** The Board sought comment on proposed modifications to its Uniform Railroad Costing System (URCS), including elimination of a feature known as the “make-whole adjustment” and certain other related changes. After receiving comments on an NPRM, the Board issued a SNPRM, held a technical workshop, and received additional comments. Based on the comments received, the Board determined that potential refinements of URCS would benefit from additional study and analysis. As a result, and to ensure efficient docket management, the Board stated that it would not take further action in this proceeding and discontinued this docket.

**Effects:**

Paperwork Reduction Act

**Prompting action:** Board Initiative

**Legal Deadline:** None

**Rulemaking Project Initiated:** 2/4/2013

**Docket Number:** EP 431 (Sub-No. 4)

**Dates for Next Action:**

<b>Milestone</b>	<b>Scheduled Date</b>	<b>New Projected Date</b>	<b>Actual Date</b>
Service Date	5/2017	6/2019	6/6/2019

**Explanation for any delay:** N/A

**Federal Register Citation for Next Action:** N/A

## Surface Transportation Board

### 2. Rail Fuel Surcharges (Safe Harbor)

**Popular Title:** Rail Fuel Surcharges (Safe Harbor)

**RIN 2140-AB17**

**Stage:** Pre-Rule

**Previous Stage:** ANPRM served 5/29/2014; End of Comment Period 10/15/2014.

**Abstract:** The Board is giving shippers, rail carriers, and other interested parties the opportunity to comment on the Board's "safe harbor" standard, which allows carriers to rely on a Board-approved fuel index to measure changes in fuel prices for purposes of their fuel surcharge programs.

**Effects:**

None

**Prompting action:** Board Initiative

**Legal Deadline:** None

**Rulemaking Project Initiated:** 5/29/2014

**Docket Number:** EP 661 (Sub-No. 2)

**Dates for Next Action:**

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	9/2016	8/2019	N/A

**Explanation for any delay:** Prior quarterly submissions available on the Board's website provide information regarding the status of this matter relevant at the time of each submission.

**Federal Register Citation for Next Action:** N/A

**Surface Transportation Board**

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**3. Expanding Access to Rate Relief**

**Popular Title:** Expanding Access to Rate Relief

**RIN 2140-AB37**

**Stage:** Pre-Rule

**Previous Stage:** ANPRM served 8/31/2016; End of Comment Period 12/19/2016. Decision served 3/28/2018 waiving the prohibition on ex parte communications in this proceeding.

**Abstract:** The Board is considering procedures that could comprise a new rate reasonableness methodology for use in very small disputes, which would be available to shippers of agricultural products and all other commodities.

**Effects:**

None

**Prompting action:** Board Initiative

**Legal Deadline:** None

**Rulemaking Project Initiated:** 08/31/2016

**Docket Number:** EP 665 (Sub-No. 2)

**Dates for Next Actions:**

<b>Milestone</b>	<b>Scheduled Date</b>	<b>New Projected Date</b>	<b>Actual Date</b>
Ex Parte Meetings	Beginning 3/28/2018	N/A	N/A
Service Date	8/2019	N/A	N/A

The subject matter of this proceeding was under review by the Board's Rate Reform Task Force. The Task Force issued its findings and recommendations in its April 25, 2019 report, which was publicly released on April 29, 2019. The Board is carefully reviewing the Rate Reform Task Force report and working to determine next steps.

**Explanation for any delay:** N/A

**Federal Register Citation for Next Actions:** N/A

**Surface Transportation Board**

**4. Review of Commodity, Boxcar, and TOFC/COFC Exemptions**

**Popular Title:** Commodity Exemptions

**RIN 2140-AB29**

**Stage:** Proposed Rule

**Previous Stage:** NPRM served 3/23/2016; End of Comment Period 8/26/2016. Decision served 3/19/2019 waiving the prohibition on ex parte communications in this proceeding, and providing a 90-day period for meetings with Board members.

**Abstract:** In this proceeding, the Board proposes to revoke the existing class exemptions under 49 C.F.R. Part 1039 for (1) crushed or broken stone or rip rap; (2) hydraulic cement; and (3) coke produced from coal, primary iron or steel products, and iron or steel scrap, wastes or tailings.

**Effects:**

Regulatory Flexibility Act

**Prompting action:** Board Initiative

**Legal Deadline:** None

**Rulemaking Project Initiated:** 3/23/2016

**Docket Number:** EP 704 (Sub-No. 1)

**Dates for Ex Parte Meetings:**

Milestone	Scheduled Date	New Projected Date	Actual Date
Ex Parte Meetings	Beginning 3/19/2019; ending 6/17/2019	N/A	Beginning 3/19/2019; ending 6/17/2019
Comment Period on Ex Parte Meeting Summaries Ends	7/2/2019	N/A	N/A

**Explanation for any delay:** N/A

**Federal Register Citation for Ex Parte Meetings:** N/A

**Surface Transportation Board**

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**5. Reciprocal Switching**

**Popular Title:** Competitive Switching Rules

**RIN 2140-AB32**

**Stage:** Proposed Rule

**Previous Stage:** NPRM served 7/27/2016; End of Comment Period 1/13/2017.

**Abstract:** The Board proposes regulations which would allow a party to seek a reciprocal switching prescription that is either practicable and in the public interest or necessary to provide competitive rail service, in accordance with 49 U.S.C. § 11102(c)(1).

**Effects:**

None

**Prompting action:** Petition from the National Industrial Transportation League.

**Legal Deadline:** None

**Rulemaking Project Initiated:** 7/27/2016

**Docket Number:** EP 711 (Sub-No. 1)

**Dates for Ex Parte Meetings:**

<b>Milestone</b>	<b>Scheduled Date</b>	<b>New Projected Date</b>	<b>Actual Date</b>
Ex Parte Meetings	Beginning 1/30/2017	N/A	N/A

Ex parte meetings have continued during second quarter 2019.

**Explanation for any delay:** N/A

**Federal Register Citation for Ex Parte Meetings:** N/A

**Surface Transportation Board**

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**6. Railroad Revenue Adequacy**

**Popular Title:** Revenue Adequacy

**RIN 2140-AB19**

**Stage:** Pre-Rule

**Previous Stage:** Notice served 4/2/2014; End of Comment Period 11/4/2014; Hearing 7/22/2015 and 7/23/2015.

**Abstract:** The Board is exploring its methodology for determining railroad revenue adequacy, as well as the revenue adequacy component used in judging the reasonableness of rail freight rates.

**Effects:**

None

**Prompting action:** Board Initiative

**Legal Deadline:** None

**Rulemaking Project Initiated:** 4/2/2014

**Docket Number:** EP 722

**Dates for Next Action:**

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	10/2016	10/2019	N/A

On March 28, 2018, the Board issued a decision clarifying that a prohibition on ex parte communications in this proceeding is not applicable.

The subject matter of this proceeding was under review by the Board's Rate Reform Task Force. The Task Force issued its findings and recommendations in its April 25, 2019 report, which was publicly released on April 29, 2019. The Board is carefully reviewing the Rate Reform Task Force report and working to determine next steps.

**Explanation for any delay:** As noted above, the Rate Reform Task Force report is under review by the Board to determine next steps. Prior quarterly submissions available on the Board's website provide information regarding the status of this matter relevant at the time of each submission.

**Federal Register Citation for Next Action:** N/A



**Surface Transportation Board**

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**7. Limiting Extensions of Trail Use Negotiating Periods**

**Popular Title:** NARPO Rulemaking

**RIN 2140-AB42**

**Stage:** Proposed Rule

**Previous Stage:** NPRM served 10/2/2018; End of Comment Period 11/21/2018; SNPRM served 6/6/2019.

**Abstract:** The Board proposes in a SNPRM to modify its regulations to establish a new one-year period for any initial interim trail use negotiating period, instead of the existing 180-day initial negotiating period; to permit up to three one-year extensions of the initial period if the trail sponsor and the railroad agree; and to permit additional one-year extensions if the trail sponsor and the railroad agree and good cause is shown.

**Effects:**

None

**Prompting action:** Petition for rulemaking.

**Legal Deadline:** None

**Rulemaking Project Initiated:** 6/14/2018

**Docket Number:** EP 749 (Sub-No. 1) [Docket No. EP 753 was consolidated into this proceeding in the 6/6/2019 SNPRM]

**Dates for Supplemental Notice of Proposed Rulemaking:**

<b>Milestone</b>	<b>Scheduled Date</b>	<b>New Projected Date</b>	<b>Actual Date</b>
Comment Period Ends	7/8/2019	N/A	N/A
Reply Period Ends	7/26/2019	N/A	N/A

**Explanation for any delay:** N/A

**Federal Register Citation for Supplemental Notice of Proposed Rulemaking:** 84 Fed. Reg. 26,387 (June 6, 2019)

**Surface Transportation Board**

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**8. Water Carrier Tariff Filing Procedures**

**Popular Title:** Water Carrier Rulemaking

**RIN 2140-AB43**

**Stage:** Final Rule

**Previous Stage:** NPRM served 12/21/2018; End of Comment Period 3/4/2019; Final Rule served 5/9/2019

**Abstract:** The Board adopted a new procedure for water carriers operating in the noncontiguous domestic trade to electronically publish, file, and keep tariffs available for public inspection, in an effort to better reflect current business practices.

**Effects:**

None

**Prompting action:** Board initiative

**Legal Deadline:** None

**Rulemaking Project Initiated:** 12/21/2018

**Docket Number:** EP 743

**Dates for Final Rule:**

<b>Milestone</b>	<b>Scheduled Date</b>	<b>New Projected Date</b>	<b>Actual Date</b>
Service Date	5/2019	N/A	5/9/2019

**Explanation for any delay:** N/A

**Federal Register Citation for Final Rule:** 84 Fed. Reg. 20,292 (May 9, 2019)

**Surface Transportation Board**

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**9. Petition for Rulemaking to Amend 49 C.F.R. Part 1250**

**Popular Title:** none

**RIN:** TBD

**Stage:** Proceeding Opened

**Previous Stage:** Proceeding opened 4/5/2019; End of Comment Period 5/20/2019.

**Abstract:** The Board opened a rulemaking proceeding in response to a petition to amend its railroad performance data reporting rules. The Board did not rule on the merits of the petition but requested additional information regarding several issues raised in the petition and reply.

**Effects:**

None

**Prompting action:** Petition filed by the American Chemistry Council

**Legal Deadline:** None

**Rulemaking Project Initiated:** 4/5/2019

**Docket Number:** EP 724 (Sub-No. 5)

**Dates for Next Action:**

<b>Milestone</b>	<b>Scheduled Date</b>	<b>New Projected Date</b>	<b>Actual Date</b>
Service Date	09/2019	N/A	N/A

**Explanation for any delay:** N/A

**Federal Register Citation for Next Action:** N/A

**Quarterly Status Report of Rate Complaint Cases Before the STB -  
2ND QUARTER 2019**

**There were no pending rate cases during the second quarter of 2019.**

## Rail Rate Cases at the STB

(1996 to Present) - Last Reviewed 6/30/2019

Docket No	Case Name	Commodity	Guidelines Used	Date of Decision	Decision
41191	West Texas v. BNSF	Coal	SAC	5/3/1996	Rates Unreasonable
37809	McCarty Farms v. BN	Grain	SAC	8/20/1997	Rates Reasonable
41185	APS v. ATSF	Coal	SAC	4/17/1998	Rates Unreasonable
41989	Pepco v. CSX	Coal	SAC	6/18/1998	Settlement
42012	Sierra Pacific v. UP	Coal	SAC	7/17/1998	Settlement
41670	Shell Chemical v. NS	Chemical	Simplified	3/12/1999	Settlement
41295	PPL v. Conrail	Coal	SAC	5/13/1999	Settlement
42034	PSI Energy v. Soo	Coal	SAC	5/13/1999	Settlement
42022	FMC v. UP	Minerals	SAC	5/12/2000	Rates Unreasonable
42038	MN Power v. DMIR	Coal	Stipulated R/VC	1/5/2001	Settlement
42051	WPL v. UP	Coal	SAC	5/14/2002	Rates Unreasonable
42054	PPL v. BNSF	Coal	SAC	8/20/2002	Rates Reasonable
42059	Northern States v. UP	Coal	Stipulated R/VC	8/7/2003	Settlement
42077	APS v. BNSF	Coal	SAC	12/31/2003	Withdrawn
42056	TMPA v. BNSF	Coal	SAC	9/27/2004	Rates Unreasonable
42069	Duke v. NS	Coal	SAC	10/20/2004	Rates Reasonable
42070	Duke v. CSXT	Coal	SAC	10/20/2004	Rates Reasonable
42072	Carolina Power v. NS	Coal	SAC	10/20/2004	Rates Reasonable
42057	Xcel v. BNSF	Coal	SAC	12/14/2004	Rates Unreasonable
42058	AEP v. BNSF	Coal	SAC	3/15/2005	Rates Reasonable
42093	BP Amoco v. NS	Chemical	Simplified	6/28/2005	Settlement
42071	Otter Tail v. BNSF	Coal	SAC	1/27/2006	Rates Reasonable
42091	APS v. BNSF	Coal	SAC	2/10/2006	Settlement
42097	Albemarle v. LNW	Chemical	SAC	11/14/2006	Settlement
42098	Williams Olefins v. GTC	Chemical	Simplified	2/15/2007	Settlement
42095	KCPL v. UP	Coal	Stipulated R/VC	5/19/2008	Rates Unreasonable
42088	Western Fuels v. BNSF	Coal	SAC	2/18/2009	Rates Unreasonable
42112	E.I. Dupont v. CSX	Chemical	SAC	5/11/2009	Settlement
41191 (S1)	AEP Texas v. BNSF	Coal	SAC	5/15/2009	Rates Reasonable
42111	Oklahoma Gas v. UP	Coal	Stipulated R/VC	7/24/2009	Rates Unreasonable
42099	DuPont v. CSXT	Chemical	Three-Benchmark	9/1/2009	Settlement
42100	DuPont v. CSXT	Chemical	Three-Benchmark	9/1/2009	Settlement
42101	DuPont v. CSXT	Chemical	Three-Benchmark	9/1/2009	Settlement
42114	U.S. Magnesium v. UP	Chemical	Three-Benchmark	1/28/2010	Rates Unreasonable
42115	U.S. Magnesium v. UP	Chemical	Simplified SAC	4/2/2010	Settlement
42116	U.S. Magnesium v. UP	Chemical	Simplified SAC	4/2/2010	Settlement
42122	NRG v. CSXT	Coal	SAC	7/8/2010	Settlement
42110	Seminole Electric v. CSXT	Coal	SAC	9/27/2010	Settlement
42113 (S1)	AEP v. UP	Coal	SAC	4/15/2011	Settlement
42128	SMEPA v. NS	Coal	SAC	8/31/2011	Settlement
41191 (S1)	AEP Texas v. BNSF	Coal	SAC-Remand	10/26/2011	Settlement
42113	AEP v. BNSF & UP	Coal	SAC	11/22/2011	Rates Unreasonable
42132	Canexus v. BNSF	Chemical	Three-Benchmark	7/20/2012	Settlement
42127	IPA v. UP	Coal	SAC	11/2/2012	Withdrawn
42123	M&G Polymers v. CSXT	Chemical	SAC	1/7/2013	Settlement
42125	DuPont v. NS	Chemical	SAC	3/24/2014	Rates Reasonable
42130	SunBelt v. NS	Chemical	SAC	6/20/2014	Rates Reasonable
42136	IPA v. UP	Coal	SAC	10/8/2014	Settlement
42088	Western Fuels v. BNSF	Coal	SAC	6/15/2015	Settlement
42121	TPI v. CSXT	Chemical	SAC	9/14/2016	Rates Reasonable
42142	Consumers v. CSXT	Coal	SAC & Revenue Adequacy	2/7/2019	Settlement
<b>Pending before the STB</b>					
Docket No	Case Name	Commodity	Guidelines Used	Date of Decision	Decision
NA					

**Notes to Table:**

1. SAC = Stand-Alone Cost Methodology Applied for a Hypothetical Railroad.
2. Simplified = Using a Simplified, Rather than Full-SAC, Methodology for Determining the Reasonableness of Rates as Set Forth in Coal Rate Guidelines, Nationwide, 1 I.C.C.2d 520 (1985) ([Guidelines](#)).
3. Stipulated R/VC = Parties Agreed to Use Revenue to Variable Cost (R/VC) Ratios @ 180% Level, in Lieu of Using SAC.
4. Three-Benchmark Methodology = Methodology of Seeking Relief Pursuant to the Revised Simplified Procedures as Set Forth in Simplified Standards for Rail Rate Cases, STB Ex Parte No. 646 (Sub-No. 1) (STB served Sept. 5, 2007) and any additional Sub-No. decisions.
5. Revenue Adequacy = Revenue Adequacy Constraint, as Described in [Guidelines](#).

**SURFACE TRANSPORTATION BOARD**  
**QUARTERLY REPORT OF FORMAL SERVICE COMPLAINTS**

Second Quarter 2019

The Surface Transportation Board Reauthorization Act of 2015 mandated that the Surface Transportation Board (STB) publish a quarterly report of formal service complaints received by the agency. *See* STB Reauthorization Act of 2015, Sec. 6(b), Pub. L. No. 114-110 (2015). During the second quarter of 2019, the following formal service-related complaints were pending:

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
2/27/2013	Application for terminal trackage rights	BNSF Railway Company— Terminal Trackage Rights—Kansas City Southern Railway and Union Pacific Railroad Company	FD 32760 (Sub-No. 46)	Louisiana	BNSF Railway Company	BNSF Railway Company, Union Pacific Railroad Company, Kansas City Southern Railway	<p>Decision granting BNSF's application for terminal trackage rights served 7/5/2016.</p> <p>Appeal filed with the U.S. Court of Appeals for the District of Columbia Circuit 9/1/2016. Appeal ordered to be held in abeyance by the D.C. Circuit 1/3/2017 to allow parties to reach agreement regarding certain terms and conditions.</p> <p>BNSF filed petition to establish conditions of use and compensation on 1/12/2018. KCS filed motion to dismiss petition on 2/1/2018. Additional pleadings by BNSF, UP, and KCS filed. Decision denying KCS motion to dismiss served 5/1/2018.</p>

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
							<p>UP and KCS filed replies to BNSF's petition on 6/25/2018 and BNSF and KCS filed rebuttals on 7/16/2018.</p> <p>The parties also participated in Board-sponsored mediation. Although the mediation period expired at the end of August, the parties held another mediation session in September. On 10/17/2018, the Board was informed that mediation was not successful.</p> <p>By decision served on 12/7/2018, the Board directed the parties to provide additional information. The parties submitted responses on 2/4/2019, and replies on 2/25/2019.</p> <p>KCS and UP filed a joint request for Board-sponsored mediation on 6/18/2019. BNSF filed a reply to the mediation request on 6/25/2019.</p>
3/31/2015	Unreasonable tariff and practices	North American Freight Car Association v. Union Pacific	NOR 42144	Nationwide	North American Freight Car Association; American Fuel & Petrochemicals	Union Pacific Railroad Company	Motion to consolidate this proceeding with NOR 42150 and NOR 42152 received 1/26/2017. Decision consolidating NOR 42150,

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
		Railroad Company			Manufacturers; The Chlorine Institute; The Fertilizer Institute; American Chemistry Council; Ethanol Products, LLC d/b/a Poet Ethanol Products; Poet Nutrition, Inc.; and Cargill Incorporated		NOR 42152, and NOR 42144 served 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served 10/5/2017.  Discovery in consolidated proceedings concluded 1/22/2019. Opening evidence filed 2/22/2019. Reply filed on 4/26/19. Rebuttal filed on 5/31/19.
12/19/2016	Unreasonable practice and violation of statutory obligation to compensate car owners	Valero Marketing & Supply Company v. Union Pacific Railroad Company	NOR 42150	Unspecified	Valero Marketing & Supply Company; and Valero Rail Partners, LLC	Union Pacific Railroad Company	Complaint filed 12/19/2016. Motion for abeyance received 1/6/2017; reply and motion to consolidate received 1/26/2017; motion to compel received 2/24/2017. Decision consolidating NOR 42150 with NOR 42152 and NOR 42144 served 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served 10/05/2017.  Discovery in consolidated proceedings concluded 1/22/2019. Opening evidence filed 2/22/2019. Reply filed on 4/26/19. Rebuttal filed on 5/31/19.
12/30/2016	Unreasonable practice and violation of	Tesoro Refining & Marketing Company LLC	NOR 42152	Unspecified	Tesoro Refining & Marketing Company LLC;	Union Pacific Railroad Company	Complaint filed 12/30/2016. Motion for abeyance received 1/6/2017; reply and motion to



Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
	statutory obligation to compensate car owners	v. Union Pacific Railroad Company			Tesoro Great Plains Gathering & Marketing LLC; and Dakota Prairie Refining, LLC		<p>consolidate received 1/26/2017; motion to compel received 2/24/2017. Decision consolidating NOR 42150, NOR 42152, and NOR 42144 served 3/31/2017. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served 10/05/2017.</p> <p>Discovery in consolidated proceedings concluded 1/22/2019. Opening evidence filed 2/22/2019. Reply filed on 4/26/19. Rebuttal filed on 5/31/19.</p>
8/1/2017	Unreasonable practice and violation of statutory obligation to compensate car owners	Arkema Inc. v. Union Pacific Railroad Company	NOR 42153	Unspecified	Arkema Inc.	Union Pacific Railroad Company	<p>Complaint filed 8/1/2017. Union Pacific's motion to consolidate with NOR 42150, NOR 42152, and NOR 42144, received 8/9/2017; answer to the complaint (8/23/2017), reply (8/29/2017), and supplement to the motion to consolidate (9/8/2017) received. Decision consolidating NOR 42153 with NOR 42150, NOR 42152, and NOR 42144 served 10/05/2017.</p> <p>Discovery in consolidated proceedings concluded 1/22/2019. Opening evidence</p>

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
							filed 2/22/2019. Reply filed on 4/26/19. Rebuttal filed on 5/31/19.
5/1/2018	Unreasonable practice	Central Valley Ag Grinding, Inc., and Central Valley Ag Transport, Inc. v. Modesto and Empire Traction Company	NOR 42159	California	Central Valley Ag Grinding, Inc.; and Central Valley Ag Transport, Inc.	Modesto and Empire Traction Company	<p>Complaint filed 5/1/2018. Petition for preliminary injunction and investigation filed 5/1/2018. Reply and motion to dismiss complaint filed 5/31/2018. Decision issuing preliminary injunction served 6/12/2018. Reply to the motion to dismiss filed 6/20/2018.</p> <p>Motion to dismiss denied 7/25/2018.</p> <p>Petition to reopen and for clarification filed (8/14/2018); reply filed (9/4/2018); request for leave to file a rebuttal and rebuttal filed (9/17/2018).</p> <p>With the assistance of Board-sponsored mediation, the parties reached a settlement agreement. The Board granted a joint request to dismiss the proceeding by decision served 4/30/2019.</p>
12/17/2018	Unreasonable practice and common carrier violations	Ameropan Oil Corporation v. Canadian National	NOR 42161	Illinois	Ameropan Oil Corporation	Canadian National Railway Company	Complaint filed 12/17/2018. Motion to dismiss filed 1/28/2019. Reply to motion to dismiss filed 2/6/2019.

Date Complaint Received	Type of Complaint	Title	Docket No.	Geographic Region	Complainant	Carrier(s) Involved	Resolution/Status
		Railway Company					<p>On 2/6/2019, Ameropan Oil Corporation filed for leave to amend the complaint to voluntarily dismiss Canadian National Railway Company and to add Illinois Central Railroad Company (a Canadian National Railway Company subsidiary) as the defendant.</p> <p>By decision served on 4/17/2019, the Board found that it lacked regulatory authority over transportation at issue, granted a motion to dismiss the complaint, and denied as moot a petition for leave to amend the complaint.</p>
4/15/2019	Petition for prescription of alternative rail service	Chicago, Rock Island & Pacific Railroad, LLC— Alternative Rail Service—C&J Railroad Company	FD 36292	Swan Lake, Mississippi	Chicago, Rock Island & Pacific Railroad, LLC	C&J Railroad Company	<p>Petition filed 4/15/2019. Reply received 4/22/2019. Rebuttal received 4/24/2019.</p> <p>By decision served 5/28/2019, the Board granted Chicago, Rock Island &amp; Pacific Railroad, LLC's request to withdraw its petition and discontinue the proceeding.</p>

**SURFACE TRANSPORTATION BOARD**  
**QUARTERLY REPORT OF INFORMAL SERVICE COMPLAINTS RECEIVED**

Second Quarter 2019

The Surface Transportation Board Reauthorization Act of 2015 mandated that the Surface Transportation Board (STB) publish a quarterly report of informal service complaints received by the agency. *See* STB Reauthorization Act of 2015, Sec. 6(b), Pub. L. No: 114-110 (2015). During the second quarter of 2019 (April 1, 2019 – June 30, 2019), the STB received the following informal complaints<sup>1</sup>:

Date <sup>2</sup>	Type of Informal Complaint	Geographic Region <sup>3</sup>	Resolution / Status	Complainant <sup>4</sup> <b>CONFIDENTIAL</b>
2/13/2019	Railroad service issue; railroad demurrage issue	West	Shipper contacted RCPA to discuss the impact of a railroad’s new operating plan, changes to service, and demurrage charges; RCPA liaised with the railroad on the shipper’s behalf to improve communications between the parties and seek resolution of the shipper’s concerns. <b>[Closed]</b>	

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<sup>1</sup> A table showing the quarterly inquiries received by the STB’s Rail Customer and Public Assistance office is attached as an Appendix to this report.

<sup>2</sup> Matters reported as “Pending” on the previous quarterly report are carried forward to the next quarterly report.

<sup>3</sup> **Northeast:** Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, New York, and Pennsylvania; **South:** Maryland, Delaware, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, and Texas; **Midwest:** North Dakota, South Dakota, Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio; **West:** Washington, Idaho, Montana, Wyoming, Oregon, California, Nevada, Utah, Colorado, Arizona, New Mexico, Alaska, and Hawaii.

<sup>4</sup> This quarterly report may identify the complainant that submitted an informal complaint only upon the written consent of the complainant. Surface Transportation Board Reauthorization Act of 2015, Sec. 6(b).

Date <sup>2</sup>	Type of Informal Complaint	Geographic Region <sup>3</sup>	Resolution / Status	Complainant <sup>4</sup> <b>CONFIDENTIAL</b>
2/26/2019	Railroad service issue; railroad demurrage issue	South	Shipper contacted RCPA to discuss railcar delays and additional concerns regarding associated demurrage; RCPA liaised with railroad to seek additional information about service failures and remedies. <b>[Closed]</b>	
2/28/2019	Railroad access issue	South	Public transportation district contacted RCPA to discuss the district's interchange access to certain railroads and potential restrictions; RCPA reviewed relevant documents and researched relevant transactions before the Interstate Commerce Commission and the STB and offered informal guidance on access issues. The district did not seek further assistance on these issues. <b>[Closed]</b>	
3/6/2019	Railroad service issue; railroad demurrage issue	Midwest	Shipper contacted RCPA about poor rail service, transit delays, and associated demurrage charges; RCPA provided general guidance to the shipper, but per the shipper's request, did not contact the railroad. The shipper did not seek further assistance. <b>[Closed]</b>	
3/11/2019	Railroad service issue	Midwest	Shipper requested RCPA assistance in working with a railroad to expedite movement of delayed cars; RCPA contacted the railroad on the shipper's behalf to move the railcars to the destination. <b>[Closed]</b>	
3/21/2019	Railroad access issue	South	Shipper requested RCPA assistance in determining potential competitive access options at its facility; RCPA reviewed relevant STB proceedings to explain potential interchange options available to the shipper. The shipper did not seek further assistance. <b>[Closed]</b>	

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3/29/2019	Railroad service issue	Northeast	Shipper contacted RCPA about erratic and delayed rail service across several railroads, including urgently needed cars that were stuck in transit; RCPA liaised with the railroads to expedite movement of the cars and discuss overall service issues. <b>[Closed]</b>	
4/1/2019	Railroad rate levels	Northeast	Short line railroad contacted RCPA to discuss the impact of operational changes and rate increases by Class I carriers; RCPA provided perspective and informal guidance. <b>[Closed]</b>	
4/2/2019	Railroad demurrage issue	South	Shipper contacted RCPA with questions regarding a railroad's demurrage policy; RCPA provided informal guidance on relevant laws and regulations. <b>[Closed]</b>	
4/2/2019	Railroad service issue	South	Shipper experiencing significant railcar delays contacted RCPA for outreach to the railroad involved; RCPA contacted the railroad and assisted in monitoring and expediting railcars to the destination. <b>[Closed]</b>	
4/4/2019	Railroad interchange issue	Northeast	Short line railroad (Short line A) contacted RCPA for guidance on an interchange issue with another short line that limited its ability to handle rail traffic; RCPA provided informal guidance on the issue; Short line A requested that RCPA not pursue the matter with the other carrier. <b>[Closed]</b>	
4/4/2019	Railroad service issue	South	Shipper contacted RCPA to discuss inaccuracies in railcar weighing and requested information on how RCPA could assist; RCPA provided guidance and offered to reach out to the railroad but the shipper chose not to pursue the matter. <b>[Closed]</b>	

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4/4/2019	Railroad service issue	Northeast	Shipper contacted RCPA seeking assistance with rail service delays; RCPA liaised with the serving carrier which provided assurances that the railcars in question would be picked up as soon as possible. <b>[Closed]</b>	
4/11/2019	Railroad car supply	West	Shipper contacted RCPA to seek assistance securing railcars through a railroad's auction program; RCPA liaised with the railroad; the railroad provided information but did not provide the requested railcars. <b>[Closed]</b>	
4/11/2109	Railroad rate levels	South	Shipper called to discuss a railroad's proposed rate increases and new service terms; RCPA provided informal guidance on commercial and regulatory issues. <b>[Closed]</b>	
4/11/2019	Railroad service issue	South	Rail shipper sought assistance from RCPA in accessing railcars stranded on a rail line due to the expiration of a lease; RCPA liaised with the involved parties who eventually came to an independent settlement. <b>[Closed]</b>	
4/12/2019	Railroad accessorial charges	Midwest	Shipper contacted RCPA to ask about the legality of a railroad's accessorial charge related to railcar handling; RCPA provided informal guidance. <b>[Closed]</b>	
4/16/2019	Railroad accessorial charges	South	Shipper contacted RCPA to discuss a railroad's OT-5 policy and related penalties for non-compliant cars; RCPA provided informal guidance. <b>[Closed]</b>	
4/16/2019	Railroad service issue	South	Shipper contacted RCPA seeking assistance expediting delayed railcar; RCPA liaised with railroad to investigate reasons for the delay and expedite delivery. <b>[Closed]</b>	

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4/16/2019	Railroad service issue; railroad demurrage issue	Midwest	Shipper contacted RCPA regarding changes in local rail service that resulted in demurrage charges; RCPA provided guidance and is assisting the shipper with the service issues. <b>[Pending]</b>	
4/18/2019	Railroad service issue; railroad accessorial charges	South	Shipper contacted the STB with concerns about railroad storage charges and service issues; RCPA provided guidance and liaised with railroad to improve communications between the parties. <b>[Closed]</b>	
4/18/2019	Railroad demurrage issue	Midwest	Receiver contacted RCPA about its potential liability for demurrage, even if it is not the freight payor; RCPA provided informal guidance on relevant laws and regulations. <b>[Closed]</b>	
4/22/2019	Railroad accessorial charges	Midwest	Shipper contacted RCPA regarding retroactive billing of accessorial charges; RCPA provided informal guidance on the railroad's collection efforts. <b>[Closed]</b>	
4/24/2019	Railroad service issue	South	Shipper sought assistance from RCPA with a railroad's change in its private equipment rules; RCPA liaised with the railroad to move cars that had not been accepted by the railroad. <b>[Closed]</b>	
4/25/2019	Railroad demurrage issue	Northeast	Shipper contacted RCPA regarding changes to a railroad's demurrage policy as well as operational changes that resulted in high demurrage charges; RCPA provided informal guidance on demurrage charges. <b>[Closed]</b>	
4/25/2019	Railroad service issue	South	Private railcar owner contacted RCPA with questions about railroad practices and pricing for moving cars between lessees; RCPA attempted to contact the owner, but the owner did not follow up. <b>[Closed]</b>	



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4/29/2019	Railroad service issue	West	Shipper contacted RCPA about rail service issues; RCPA provided informal guidance and offered to liaise with the railroad, but shipper chose not to pursue the matter further. <b>[Closed]</b>	
4/29/2019	Railroad service issue	Northeast	Shipper contacted RCPA to seek assistance with mis-routed railcar; RCPA liaised with railroad to re-route car and deliver to destination. <b>[Closed]</b>	
4/29/2019	Railroad demurrage issue	Midwest	Shipper sought assistance from RCPA regarding recent increases in demurrage bills; RCPA offered to provide informal assistance to the shipper and is awaiting additional information. <b>[Pending]</b>	
4/30/2019	Railroad rate levels	South	Shipper contacted RCPA regarding rate increases; RCPA liaised with the railroad to gather more information and improve communications between the parties. <b>[Pending]</b>	
5/7/2019	Railroad service issue	South	Shipper's attorney reported to RCPA that a city was limiting the hours during which the shipper could receive rail service and inquired if RCPA could review the matter; RCPA provided informal guidance on STB jurisdiction and offered additional assistance if needed. <b>[Closed]</b>	
5/7/2019	Railroad rate levels	South	Shipper reported that a railroad had increased its rates significantly; RCPA discussed the increased rates with the railroad and advised of the shipper's concerns; the shipper subsequently advised RCPA that the railroad would not be taking a further rate increase during the coming year. <b>[Closed]</b>	

Date <sup>2</sup>	Type of Informal Complaint	Geographic Region <sup>3</sup>	Resolution / Status	Complainant <sup>4</sup> <b>CONFIDENTIAL</b>
5/8/2019	Railroad service issue	Midwest	Shipper inquired if a railroad could use the shipper's private siding to store railcars pending renewal of a railroad service agreement; RCPA provided informal guidance to the shipper. <b>[Pending]</b>	
5/9/2019	Railroad service issue	Midwest	Shipper sought RCPA assistance negotiating with a railroad regarding the expansion of the shipper's facility to handle increased traffic volumes while allowing a second railroad with operating rights over the same line to access the facility; RCPA facilitated discussions between the parties. <b>[Closed]</b>	
5/9/2019	Railroad rate levels	South	Shipper reported that a railroad had increased its rates significantly; RCPA contacted the shipper for further information, but the shipper did not respond. <b>[Closed]</b>	
5/17/2019	Railroad service issue	South	Shipper notified RCPA of concerns about potential service problems related to a short line railroad taking over operations on a former Class I rail line; RCPA provided guidance to the shipper but, per the shipper's request, did not contact the railroads. <b>[Closed]</b>	
5/29/2019	Railroad service issue; railroad rate levels	Midwest	Shipper contacted RCPA to discuss concerns regarding a railroad's charges for movement of empty cars, and a dispute regarding rates established under contract; RCPA provided informal guidance, but per the shipper's request did not contact the railroad. <b>[Closed]</b>	

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5/29/2019	Railroad service issue	South	Shipper sought RCPA assistance in connection with a railroad's cessation of service at its facility; RCPA liaised with the railroad, which said that service had been temporarily suspended due to a derailment and related safety concerns; rail service resumed thereafter. <b>[Closed]</b>	
5/31/2019	Railroad service issue	South	Shipper contacted RCPA to discuss a railroad's statement that it would embargo the shipper's facility due to higher than normal traffic and use of railroad-provided storage; RCPA provided informal guidance but, per the shipper's request, did not contact the railroad. <b>[Closed]</b>	
6/6/2019	Railroad rate levels	Midwest	Shipper reported to RCPA that its rates had recently increased significantly due to traffic detouring over longer routes as the result of flooding; RCPA provided informal guidance to the shipper. <b>[Pending]</b>	
6/10/2019	Railroad rate levels	South	Shipper contacted RCPA regarding significant rail rate increases; RCPA discussed the situation with the shipper and brought the issue to the railroad's attention; the railroad subsequently said it would contact the shipper directly to discuss the situation. <b>[Closed]</b>	
6/11/2019	Railroad service issue	Midwest	Shipper contacted RCPA with concerns about a new railroad providing service at its facility, replacing the incumbent operator; RCPA provided informal guidance on commercial and regulatory issues. <b>[Closed]</b>	
6/11/2019	Railroad service issue	Midwest	Shipper reported that its rail service was deteriorating and that local train crews have disregarded instructions provided by the shipper; RCPA contacted the shipper to request further information. <b>[Pending]</b>	

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6/12/2019	Railroad rate levels	West	Shipper asked RCPA about a railroad's rate structure, which the shipper believed would benefit certain shippers over others; RCPA provided informal guidance on rate setting and explained rate case procedures; the shipper said it would not pursue the matter further at this time. <b>[Closed]</b>	
6/12/2019	Railroad service issue	South	Shipper sought RCPA assistance in working with a railroad, which proposed certain commercial and operational conditions on new operations at the shipper's facility; RCPA contacted the railroad on the shipper's behalf to discuss the conditions. <b>[Pending]</b>	
6/13/2019	Railroad service issue	Midwest	Shipper requested RCPA assistance with a matter relating to the speed at which a railroad enters its facility over a spur track and track maintenance responsibilities; RCPA liaised with the railroad about operational issues and then followed up with the shipper; RCPA referred safety related questions to FRA. <b>[Closed]</b>	
6/18/2019	Railroad service issue	West	Shipper advised RCPA that a railroad was failing to supply an adequate number of cars for loading; the shipper noted that the railroad had recently restricted information available to shippers through its car tracking systems; RCPA provided informal guidance but per the shipper's request, did not contact the railroad. <b>[Closed]</b>	
6/18/2019	Railroad service issue	Midwest	Shipper notified RCPA of a railroad's reduction in switching service at its facility and its adverse impact upon its business; RCPA reached out to the shipper for further information. <b>[Pending]</b>	

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6/18/2019	Railroad service issue	Midwest	Shipper contacted RCPA about a railroad's recent reduction in the number of switches per week provided to its facility; RCPA provided informal guidance on legal and commercial issues and informed the shipper of relevant proceedings before the Board; RCPA is waiting for authorization from the shipper before approaching the railroad. <b>[Pending]</b>	
6/24/2019	Railroad access issue	Midwest	Shipper contacted RCPA about seeking access to a second rail carrier due to deficient service from its incumbent carrier; RCPA provided informal guidance on the legal and regulatory framework governing competitive access and relevant proceedings before the Board; the shipper did not request that RCPA contact the incumbent carrier about service issues. <b>[Closed]</b>	
6/25/2019	Railroad rate levels	West	Shipper contacted RCPA about a railroad's rates in comparison to rates offered by another railroad over a different route; RCPA provided informal guidance to the shipper on commercial issues, including potential reasons for the disparity between the rates, and offered to liaise with the railroads. <b>[Pending]</b>	
6/25/2019	Railroad service issue	West	Shipper contacted RCPA to discuss recent service issues related to a railroad's change to its operating plan, including its breakdown in coordination with another railroad participating in the joint line move to the shipper's facility; RCPA discussed the issues with the shipper; however, the shipper asked RCPA not to contact the railroad at this time. <b>[Closed]</b>	

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6/26/2019	Railroad service issue	West	Shipper contacted RCPA about a railroad's statement that it intended to take the shipper's spur track out of service; RCPA requested additional information from the shipper about its service in order to provide guidance and potentially liaise with the railroad on the shipper's behalf. <b>[Pending]</b>	

Note: A table showing the quarterly inquiries received by the STB's Rail Customer and Public Assistance office is attached below as an appendix to the foregoing report.

## Appendix to Quarterly Report of Informal Service Complaints

### 2nd Quarter 2019 Cases by Category/Region

Issue Category	All Regions	Northeast	South	Midwest	West	Not Specified
Abandonment Records	43	8	11	11	4	9
Acquisition and Operation/Exemption	1	0	0	1	0	0
Arrange Meeting	5	2	1	1	1	0
Bus Issue	3	1	0	1	1	0
Educational	1	0	0	0	1	0
Household Movers	12	2	2	4	1	3
Information-Economic Data	7	0	1	2	1	3
Information-Non Economic Request	4	3	0	0	0	1
Motor Carriers (trucks)	6	0	0	2	1	3
Non-Railroad Service Issue	1	0	1	0	0	0
Railroad Abandonment/Loss of Service	1	0	1	0	0	0
Railroad Agricultural Contract Filing	1	0	0	1	0	0
Railroad Amtrak/Passenger Issue	3	0	0	1	0	2
Railroad Billing Dispute	1	0	0	0	0	1
Railroad Blocked Crossings	36	1	2	20	0	13
Railroad Car Supply	1	0	0	0	1	0
Railroad Claims	1	0	1	0	0	0
Railroad Common Carrier Obligation	5	1	0	0	3	1
Railroad Cost of Capital	1	0	0	0	0	1
Railroad Demurrage Charges	16	1	5	6	3	1
Railroad Denial of Rail Service	3	0	2	0	1	0
Railroad Embargo	3	0	0	0	2	1
Railroad Environmental Issues	5	0	1	0	0	4
Railroad Financial Issue	1	0	1	0	0	0
Railroad Freight Car Repair	1	0	1	0	0	0

<b>Issue Category</b>	<b>All Regions</b>	<b>Northeast</b>	<b>South</b>	<b>Midwest</b>	<b>West</b>	<b>Not Specified</b>
Railroad Freight Car Seals	1	0	0	1	0	0
Railroad Grade Crossing Issues	1	0	1	0	0	0
Railroad Idling Engines/Parked Trains	4	0	0	1	3	0
Railroad Interchange Issue	6	1	0	4	1	0
Railroad Labor Issues	3	1	0	1	0	1
Railroad Lease of track or equipment	1	0	0	0	1	0
Railroad Liability Issues	1	0	0	1	0	0
Railroad Miscellaneous Charges	1	0	0	1	0	0
Railroad Noise - Airhorn, Safety, etc	2	0	1	1	0	0
Railroad Operating Authority Issue	1	1	0	0	0	0
Railroad Preemption	5	2	0	2	1	0
Railroad Rate Levels/Increases	13	1	6	2	3	1
Railroad Reciprocal Switching	1	0	0	0	0	1
Railroad Service Issue	29	3	8	8	3	7
Railroad Side Track Agreement	1	1	0	0	0	0
Railroad Tariff Issue	1	0	0	1	0	0
Rails to Trails	7	0	1	2	1	3
Real Estate Matter	5	0	3	1	1	0
STB Authority Question	8	0	2	4	0	2
STB Fees	2	0	1	1	0	0
STB Information	71	7	8	5	2	47
STB Jurisdictional Question	7	4	1	0	1	1
STB Offers of Financial Assistance (OFA)	1	0	0	1	0	0
STB Oral Hearings	5	1	2	1	0	1
STB Practitioners Exam	1	0	0	1	0	0
STB Procedural Assistance	53	5	9	13	12	14
STB Recordations or Security Interests on Rail Cars	10	0	1	3	2	4
STB Records Assistance	17	3	5	1	4	4
STB Webpage/Downloading Assistance	7	2	0	0	0	5
Water Carrier	12	2	4	0	3	3



<b>Issue Category</b>	<b>All Regions</b>	<b>Northeast</b>	<b>South</b>	<b>Midwest</b>	<b>West</b>	<b>Not Specified</b>
Wrong Agency Calls	5	0	0	0	0	5
Other	5	1	3	0	1	0
Total	447	54	86	106	59	142

U.S. Census Regions:

Northeast Region	Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, New York, and Pennsylvania
South Region	Maryland, Delaware, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, and Texas
Midwest Region	North Dakota, South Dakota, Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio
West Region	Washington, Idaho, Montana, Wyoming, Oregon, California, Nevada, Utah, Colorado, Arizona, New Mexico, Alaska, and Hawaii

## Appendix to Quarterly Report of Informal Service Complaints

### 2nd Quarter 2019 Cases per Commodity Group\*

Commodity Group	Number
Aggregates	5
Agricultural Products	29
Automobile	2
Chemicals	9
Coal	5
Empty Freight Cars	3
Hazardous Waste/Radioactive Waste	1
High/Wide Loads	1
Household Goods	9
Industrial Products	15
Intermodal	3
Metals and Minerals	8
Not Specified by Shipper	6
N/A	334
Other	3
Passenger	15
TIH	1
Total	449

\*In many instances, the commodity is not specified or material to the inquiry, therefore the total number for this data may not equal the total number of inquiries for the quarter.