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Industrial Minerals Association — North America

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Comments of the Industrial Minerals Association – North America

RE: Docket Number EP 757, Policy Statement on Demurrage and Accessorial Rules and Charges; EP 759, Demurrage Billing Requirements; EP 760, Exclusion of Demurrage Regulation from Certain Class Exemptions

Dear Chairman Begeman, Vice Chairman Fuchs, and Commissioner Oberman:

The Industrial Minerals Association – North America (IMA-NA) would like to thank the members of the Surface Transportation Board (STB) for their strong and welcome oversight on this important issue of demurrage and accessorial charges. We applaud the STB for closely monitoring this situation from the early stages of 2019 when the railroads began unilaterally implementing changes to their demurrage practices. The hearing in May 2019 provided a terrific forum for shippers, railroads and third-party groups to present the facts to the Board. It is clear from the three documents introduced last month that the Board has heard the concerns of shippers as it relates to the demurrage and accessorial fees.

The IMA-NA appreciates the opportunity to provide brief comments on the STB's proposed rulemaking in *Demurrage Billing Requirements* and on the STB's *Policy Statement on Demurrage and Accessorial Rules and Charges*. The IMA-NA applauds the oversight effort over the last several months of the evolving practices of the railroads as it relates to their punitive and unreasonable changes to the formulas for demurrage and accessorial charges as they have been transitioning to a so-called precision scheduled railroading model. Our member companies have been shocked by the changes to the demurrage and accessorial fees they've seen thus far in 2019 from the railroads. The complete lack of commercial fairness and, most importantly, any form of reciprocity was stunning.

The IMA-NA appreciates the steps the Board is taking to set forth the necessary guidelines for these situations to ensure that the railroads attempt to increase their revenues at the expense of shippers is kept in check. In our comments six months ago for the hearing, we indicated that it was our hope that the result of the hearing will be a set of clear guidelines for when and how these demurrage fees should be charged. The IMA-NA believes with these proposals, the STB has certainly done that, and we are greatly appreciative of your efforts.

The IMA-NA is a trade association that represents companies that mine, process and sell industrial minerals throughout North America.¹ The industrial minerals produced by IMA-NA member companies are the raw material feedstock that are incorporated into a broad range of products, including among other things, container, flat and specialty glasses, paint and coatings, ceramics, and a broad range of building products. Additionally, industrial minerals are used to make foundry molds and cores, which are in turn used to make metal shapes used to manufacture automobiles, SUVs and trucks, rail cars and almost all other items that have metal castings. The demand for many of these minerals from manufacturers is global, and the continued pressure our member companies are feeling from the railroads in the form of constant rate increases and now new, higher demurrage and accessorial charges are making it more difficult to compete in that global market.

Industrial minerals are low margin, high volume products. Our member companies are heavily dependent upon a reliable and cost-effective transportation network, especially rail, and are major shippers with the major rails. To help highlight that, in 2014, the nonmetallic minerals except fuels category, made up \$1.5 Billion in total freight rail premiums.

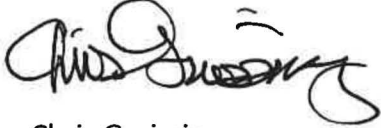
IMA-NA strongly supports the Board's proposed rule in *Demurrage Billing Requirements*. The recent implementation of new demurrage fees represented a new revenue stream for the railroads, rather than the intended use of helping to facilitate the flow of commerce by the prompt loading and unloading of cargo. The unreasonable and unilateral nature of the new demurrage rules by the railroads negatively impacted shippers across many sectors including ours. The lack of information included in the invoices to show the validity of the charges was a major concern. These charges are something all shippers must be able to clearly identify including all of the key data points in as transparent a manner as possible. The more transparent and thorough the invoice, the greater insight there will be into the cause of the delay that led to the charges and hopefully prevent future delays, which is the primary reason for demurrage. So we are very appreciative of the proposals in the NPRM, and support the prompt implementation of this proposal to provide that needed clarity.

Furthermore, IMA-NA greatly appreciates the STB's issuance of the Policy Statement on Demurrage and Accessorial Rules and Charges. The statement contains several of the key principles that were requested by shippers both in-person at the hearing and in the comments. Allowing for the evaluation of the reasonableness of demurrage and accessorial rules and charges is of strong importance to our member companies. We believe the policy statement will provide valuable guidance to both the railroads and shippers alike. The IMA-NA applauds the general principles as outlined in the policy statement and believe this is a terrific step in the right direction.

¹ IMA-NA represents a wide variety of minerals in North America, including: ball clay, barite, bentonite, borates, calcium carbonate, diatomite, feldspar, industrial sand, kaolin, soda ash, talc, wollastonite and other minerals.

Again, we thank the Board for providing the necessary oversight on this important issue. The IMA and our member companies look forward to working with you constructively throughout this process to provide the needed clarity and transparency to the demurrage process.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Greissing". The signature is stylized with a large, looped "C" and a long, sweeping underline.

Chris Greissing
Executive Vice President

