



ASSOCIATION OF AMERICAN RAILROADS

425 3rd Street, SW, Suite 1000
Washington, D.C. 20024

Timothy J. Strafford
Associate General Counsel

Phone: (202) 639-2506
Fax: (202) 639-2868
E-mail: tstraftord@aar.org

January 9, 2017

242389

ENTERED

Office of Proceedings

January 9, 2017

Part of

Public Record

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

Re: EP 724 (Sub-No. 4), *United States Rail Service Issues – Performance Data Reporting*

Dear Ms. Brown:

By this letter, the Association of American Railroads (“AAR”) hereby replies to the petition for reconsideration filed by The Fertilizer Institute (“TFI”) on December 20, 2016, in the above captioned proceeding. TFI asks the Board to reconsider the list of standard transportation commodity codes (“STCC”) adopted as “fertilizer” for which the Board required reporting of certain data in the order served in this proceeding on November 30, 2016 (“Final Rule”). TFI asks for reconsideration of the Final Rule “on grounds that the decision will be affected by new evidence that renders it materially incomplete.” TFI now states that it has “identified an additional fertilizer STCC, 28-713-13 that should be included for the list to be complete.”

In the AAR’s opening comments to the Supplemental Notice of Proposed Rulemaking (“SNPRM”), the AAR questioned the utility and practicality of breaking out “fertilizer” for separate reporting and noted that the Board’s proposed list of fertilizer STCC codes was flawed because it included reporting of commodities that clearly were not fertilizer. *See* AAR SNPRM Comments at 7-8. In reply comments to the SNPRM, the AAR noted that neither the SNPRM nor the parties’ opening comments provided a workable definition of fertilizer. *See* AAR SNPRM Reply at 4. Notably, TFI’s opening comments did not provide any refinement of the SNPRM’s proposal. *See* TFI SNPRM Comments at 6. But on reply, TFI proposed to narrow the definition of fertilizer to 14 seven-digit STCCs. *See* TFI SNPRM Reply at 4. The Final Rule adopted TFI’s list of STCC codes without discussion or analysis. *See* Final Rule at 15.

Despite the fact that TFI’s submission hardly constitutes new evidence, the AAR does not object to STCC code 28-713-13 being included in the reporting requirement. However, the AAR

strongly urges the Board to put great weight on TFI's representation that the list of STCC codes is now "complete." Any further changes to the list of required STCC codes for reporting will necessitate additional programming changes and impose other costs on rail carriers for reports of limited utility in the first place. TFI and other shippers have had nearly three years to weigh in on rail service reporting and the Board should not amend the rules any further without a demonstration of compelling need.

Respectfully submitted,



Timothy J. Strafford
Counsel for the Association
of American Railroads