



# Getting Back to Basics

## Revisiting the Legal Basis for Freight Overcharge Recoveries

In recent months, we have seen a great deal of turnover in personnel at both our client and carrier ends. Whether due to retirements, promotions, changes of careers, etc., we find ourselves in a position of re-educating newcomers on the basics of freight overcharge recovery. School may be out for the summer, but it is an exciting opportunity to revisit some of the fundamentals with regard to the legal basis for what we do.

The recovery of overcharges for truck freight is governed by **Title 49, CFR, Part 378, Procedures Governing the Processing, Investigation, and Disposition of Overcharge, Duplicate Payment, or Overcollection Claims**. As the title implies, this provision covers the processing of claims for the transportation of property in interstate or foreign commerce by motor carriers and household goods freight forwarders subject to 49 U.S. Code Subtitle IV, Part B. When shippers partner with carriers that participate in the National Motor Freight Classification (NMFC), they can find provisions regarding overcharge claims processes in Items 300300-300380.

For rail freight commodities such as wheat, soybeans and various food products still regulated by the government, the recovery of overcharges for rail freight moving under public rates is governed by **US Code, Title 49, 11705, Limitations on Actions By and Against Rail Carriers**. For exempt commodities or products moving under contracted pricing, overcharges and associated time limits are outlined in the carrier's rules tariffs or noted in the confidential documents entered into by shippers and the various railroads.

With such laws and contracts as an underpinning, **AMTR** serves our shipper clients as a duly authorized agent to process requests with carriers for overcharges, regardless of nature. Even though we do advocate for shippers, we take seriously our mission to partner with carriers—rail or truck—to ensure shippers get the customer experience they deserve.

## Bumping Item 171 “Bumped” from NMFC

During the National Motor Freight Traffic Association’s (NMFTA) public meeting in June 2019, the Commodity Classification Standards Board (CCSB) eliminated NMFC Item (Rule) 171—known as the “Bumping” Clause—and all notes for classifications referencing the Item. Item 171 permitted shippers to increase an LTL shipment’s density (by artificially increasing weight), thereby lowering a shipment’s class for rating purposes. Although “bumping” was not applicable in situations where the added artificial weight would not have resulted in cost savings, it was a rule that shippers could have implemented for cost savings in various ways. Imagine the impact of adding a few extra pounds on the bill of lading, thereby increasing the density, and resulting in a lower rating class. Moreover, if the lower class obtained from bumping fell within a pricing freight all kinds (FAK) scale, it would result in an even lower class and even greater cost savings.

The bottom line is, it is critical for shippers to understand the NMFC rules and their impacts on transportation budgets. Partner with **AMTR** and let us put that same knowledge to work for your company by discovering overcharges, recovering freight dollars and educating your team on similar cost saving rules.

## Calling Attention to UP Tariff Changes

The Union Pacific has recently issued a new UP 1000 *General Terms and Conditions* Tariff effective March 1, 2019. The important change in this tariff involves a significantly shorter timeline for filing overcharge claims for regulated commodities—one year now rather than the three years previously allowed. The new tariff specifically states that this publication shall apply to all transportation services provided by UP under any rate document that references the new tariff. The significance for shippers of certain commodities involves the drastic decrease in time allowed to discover any errors (whether they are shipper or railroad errors) and recover overcharges. It is important to note, however, that shippers of commodities that remain under the protection of federal regulation will still have three years to recover overpayments. Significant changes such as this can easily be missed by busy shippers, but not by **AMTR**. Keeping abreast of industry news is our business—be Smart and let us do the hard thinking for you!

# Industry News

## Strength in Numbers—Readdressing Commodity Exemptions

The Surface Transportation Board (STB) recently met with several shipper associations, including the American Forest and Paper Association (AF&PA) and the Institute of Scrap Recycling Industries, to discuss lifting the outdated exempt status of several commodities, such as crushed or broken stone, hydraulic cement, iron or steel scrap, and forest/paper products. These shipper associations contest that conditions have changed significantly in the years since railroad industry deregulation in the 1980s. In a recent *FreightWaves* article, Julie Landry of the AF&PA noted that the many Class I railroads of that era have, today, consolidated into six financially solid entities, leaving a majority of forest and paper product shippers captive. Without the oversight of the STB, shippers of exempt commodities say they have been left with no recourse when faced with lack of service and unreasonable rates. With three voting members now in place on the STB, **Ex Parte 704—Review of Commodity, Boxcar and TOFC/COFC Exemptions** is at last set to gain steam. If these issues are important to your company, now is the time to get involved with your industry associations and put the strength of numbers to work!



## Shippers Have a Voice about Proposed NMFC Amendments

With the deregulated trucking industry, it is important for shippers to stay informed and use their voices regarding proposed changes for the NMFC Rules and Classifications. The NMFTA hosts three public meetings per year where the CCSB considers proposals to amend the NMFC. Shippers should be aware that these proposals are listed in a Docket Bulletin, which is issued 30 days prior to a public meeting and posted on the NMFTA website. This announcement allows shippers and other interested parties to address the CCSB with information or concerns prior to or during a public meeting. Any decisions made at the meetings are documented on the NMFTA's website and implemented in an NMFC Supplement. Shippers are highly encouraged to stay up-to-date on proposals and decisions that could affect their shipping classifications and rules via the **NMFTA website**: [www.nmfta.org/pages/publicdocketfiles](http://www.nmfta.org/pages/publicdocketfiles).

## Quote

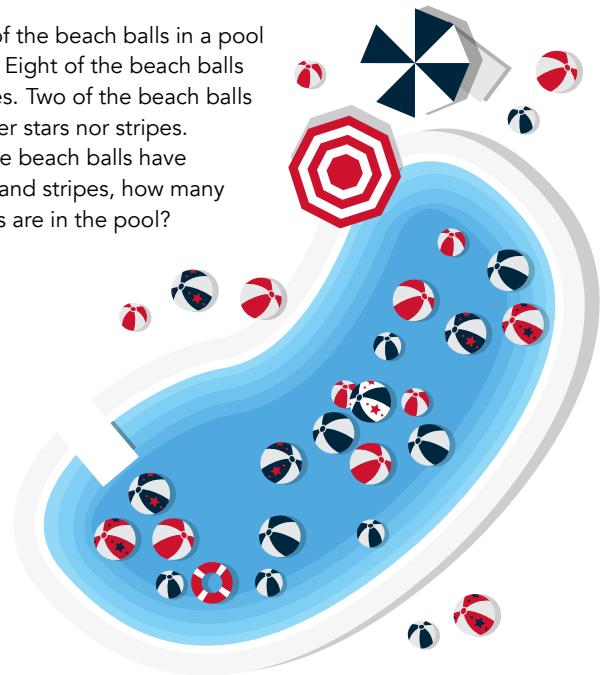
The only way you can stay on top is to remember to touch bottom and get back to basics.

— Shane Black

## American Truck and Rail Audits, Inc. Summer 2019 Brain Teaser: Stars and/or Stripes

Using the clues in the below statements, determine the total number of beach balls in the pool.

Fourteen of the beach balls in a pool have stars. Eight of the beach balls have stripes. Two of the beach balls have neither stars nor stripes. If five of the beach balls have both stars and stripes, how many beach balls are in the pool?



Adapted from: <https://www.rd.com/culture/brain-teasers/>

Find the solution for this brain teaser at [amtr.com/brain-teasers](http://amtr.com/brain-teasers)

## Upcoming Events:

**Midwest Specialty Grains Conference & Expo**  
Chicago, IL  
August 20-22

**Petroleum Connections  
Frac Sand Expo**  
San Antonio, TX  
September 4-6

**SEARS—  
Fall Meeting 2019**  
Hilton Head Island, SC  
September 10-11

**ACSM 2019** (Formerly APICS)  
Las Vegas, NV  
September 16-18

**SWARS—  
Semi-Annual Meeting 2019**  
Phoenix, AZ  
September 18-19

**PNWARS—  
Fall Meeting 2019**  
Vancouver, BC  
September 18-19

**NEARS—  
Fall Meeting 2019**  
Burlington, VT  
October 1-3