

**SURFACE TRANSPORTATION BOARD EXEMPTS RAIL TRANSPORT OF RECYCLABLE
COMMODITIES, DENIES EXEMPTION REQUEST FOR PAINTS AND RELATED
PRODUCTS**

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EXEMPTS RAIL TRANSPORT OF RECYCLABLE COMMODITIES,
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FOR PAINTS AND RELATED PRODUCTS**

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued final decisions in two rulemaking proceedings considering requests that it exempt from regulation certain nonferrous recyclable commodities and paints and related products moving by railroad. The Board's decisions were based on actual rate levels for each traffic group: the recyclables traffic moved at extremely low rates, while many of the paints and related products moved at substantially higher rates and thus require continued regulation.

The Board's actions were taken in response to railroad requests for exemption. The statute requires the Board to exempt transportation when it finds that regulation is not necessary to carry out the national rail transportation policy, and either the transaction or service is of limited scope, or regulation is not needed to protect shippers from an abuse of market power. Average rates on the recyclables traffic have been declining, motor carriers have been competing for the traffic, and for 1995, the carriers' revenues on the traffic were at or below their variable costs. Finding that the transportation of nonferrous recyclables is competitive, the Board exempted it from regulation, noting that it could revoke the exemption for any shipper that shows that a railroad has market power over it.

The Board's analysis of paints, by contrast, showed a far different picture. Railroads carrying paints and related products earned substantial profits on many movements, which indicates that they may have market power over some paint shippers. For that reason, the Board found it appropriate "to continu[e] to provide shippers with recourse to challenge the rates charged for transport of this traffic."

The Board's decision in Ex Parte No. 561, Rail General Exemption Authority-- Nonferrous Recyclables, was issued today, April 21, 1998. The Board's decision in Ex Parte No. 346 (Sub-No. 33), Rail General Exemption Authority--Exemption of Paints, Enamels, Lacquers, Shellacs, Etc., was issued on April 20, 1998. These decisions are available on the Board's web site at www.stb.dot.gov.

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