



**Figure 5. - Webbing Tension Pull Device**

BILLING CODE 1505-01-C

**DEPARTMENT OF TRANSPORTATION**

**Surface Transportation Board**

**49 CFR Part 1039**

[STB Ex Parte No. 548]<sup>1</sup>

**Exemption From Regulation—Boxcar Traffic**

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Final rule.

<sup>1</sup> The notice of proposed rulemaking issued on March 26, 1996 was designated as STB Ex Parte No. 346 (Sub-No. 8). In a notice served on May 2, 1996, the docket number was changed to STB Ex Parte No. 548.

**SUMMARY:** The Surface Transportation Board (the Board) is eliminating an obsolete provision of a regulation pertaining to rates on nonferrous recyclable commodities by broadening the exemption for traffic moving in boxcars.

**EFFECTIVE DATE:** June 28, 1996.

**FOR FURTHER INFORMATION CONTACT:** Beryl Gordon, (202) 927-7513. [TDD for the hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA) abolished the Interstate Commerce Commission (ICC) and established the Board. Section 204 of the ICCTA provides that "[t]he Board shall promptly rescind all regulations established by the [ICC] that are based on provisions of law repealed

and not substantively reenacted by this Act." In *Removal of Obsolete Recyclables Regulations*, 1 S.T.B. 7 (1996) (*Obsolete Regulations*), the Board removed, *inter alia*, obsolete recyclable regulations at 49 CFR 1134 and 49 CFR 1145, pertaining to discrimination against recyclables and rates on recyclables, because Congress repealed former 49 U.S.C. 10710 and 10731, the statutory bases for these regulations. We stated that we would separately consider the disposition of 49 CFR 1039.14(b)(5), which excludes rates on nonferrous recyclable commodities from the exemption of boxcar traffic from rate regulation.

Consequently, on March 26, 1996, we served a notice of proposed rulemaking (NPR) in this proceeding, published at

61 FR 13146, proposing to remove 49 CFR 1039.14(b)(5) and to redesignate paragraphs (6) and (7). The only comment in response to the NPR was filed by AAR. Noting the substantial intermodal and intramodal competition for nonferrous recyclables, as evidenced by the decline in rail market share and the fact that, from 1981 through 1994, revenue per ton mile for nonferrous recyclables fell 49 percent in constant (inflation-adjusted) dollars, AAR supports the proposal and asks that it be adopted expeditiously.

We will grant the broader exemption by removing the exclusion for nonferrous recyclables from the boxcar exemption. The ICC has already found that an exemption from rate regulation for transportation by boxcars was warranted.

Now that the special statutory provisions for recyclables traffic are gone, there is no basis for excluding it from the exemption. The current record, moreover, warrants granting an exemption.

We find that a broadened exemption will meet the standards of new section 10502. Regulation is generally not necessary to carry out the transportation policy of new 49 U.S.C. 10101. See 49 U.S.C. 10101 (1), (2), (3), (5), and (9). Furthermore, given the competitive nature of transportation of nonferrous recyclables, regulation is not necessary to protect shippers from abuse of market power.

The Board certifies that this rule will not have a significant economic effect on a substantial number of small entities. This rule will reduce regulation; it imposes no new reporting or other requirements directly or indirectly on small entities. While there may be an impact on some small entities because recyclables no longer will be excepted from the boxcar exemption, it appears that such an impact will not be significant nor will it likely affect a significant number of small entities.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

#### List of Subjects in 49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Manufactured commodities, Railroads.

Decided: May 15, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,  
Secretary.

For the reasons set forth in the preamble and under the authority of 49

U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended as set forth below:

#### PART 1039—EXEMPTIONS

1. The authority citation for part 1039 continues to read as follows:

Authority: 5 U.S.C. 553 and 49 U.S.C. 721 and 10502.

##### § 1039.14 [Amended]

2. Section 1039.14 is amended by removing paragraph (b)(5) and redesignating paragraphs (b)(6) and (b)(7) as paragraphs (b)(5) and (b)(6).

[FR Doc. 96-13278 Filed 5-28-96; 8:45 am]

BILLING CODE 4915-00-P

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 651

[I.D. 052196A]

##### Northeast Multispecies Fishery; Amendment 7; Resubmission of the Measure for the Nonregulated Species Permit Category

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** NMFS announces that the New England Fishery Management Council (Council) has resubmitted a previously disapproved proposal contained in Amendment 7 to the Northeast Multispecies Fishery Management Plan (FMP) concerning the Possession Limit category permit. The Council revised the permit and submitted it for Secretarial review. The intended effect of this measure is to allow fishing for nonregulated multispecies (silver hake, red hake, and ocean pout) in fisheries having minimal bycatch of regulated multispecies.

**DATES:** Comments must be received on or before June 24, 1996.

**ADDRESSES:** Send comments to Dr. Andrew A. Rosenberg, Regional Director, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930-3799. Mark the outside of the envelope "Comments on Possession Limit Permit Category."

Copies of the original Amendment 7 and related documents are available from the New England Fishery Management Council, 5 Broadway (U.S. Rte. 1), Saugus, MA, 01906-1097.

**FOR FURTHER INFORMATION CONTACT:** Peter W. Christopher, Fishery Management Specialist, 508-281-9288.

##### SUPPLEMENTARY INFORMATION:

Amendment 7 was prepared by the Council and submitted to the Secretary of Commerce (Secretary) for review under section 304(b) of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The Magnuson Act requires the Secretary to approve, disapprove, or partially disapprove FMPs or amendments, based upon a determination of consistency with national standards and other applicable laws. On February 14, 1996, the Secretary announced disapproval of three measures contained in Amendment 7: The additional allowance of days-at-sea (DAS) for trawl vessels enrolled in the Individual DAS category that use exclusively 8-inch (20.32 cm) mesh, the 300-lb (136.1 kg) possession allowance of regulated species for vessels that use 8-inch (20.32 cm) mesh in an exempted fishery, and the establishment of a limited access category for vessels that fished in the Possession Limit open access category under Amendment 5. The remainder of Amendment 7 was published as a proposed rule on March 5, 1996 (61 FR 8540), and the first two of the three disapproved measures were resubmitted by the Council. The measure that would have allowed a 300-lb (136.1 kg) regulated species possession limit for vessels fishing with 8-inch (20.32 cm) mesh in an exempted fishery was again disapproved and the measure that would give additional multispecies DAS to all limited access multispecies vessels fishing exclusively with large mesh was published as a proposed rule on April 18, 1996 (61 FR 16892). Amendment 7, with the exception of the three measures, was approved on May 16, 1996. The resubmitted measure that would give additional DAS to all groundfish vessels fishing under the Large Mesh Individual DAS category was approved on May 17, 1996, and has been added to the final rule to implement Amendment 7.

Pursuant to section 304(b)(3)(A) of the Magnuson Act, the Council has resubmitted the third disapproved measure. This proposed measure is designed to allow fishing for nonregulated multispecies by vessels that do not qualify for a limited access permit.

Regulations proposed by the Council to implement the resubmitted measure for Amendment 7 to the FMP are scheduled to be published within 15 days.

Authority: 16 U.S.C. 1801 *et seq.*