§ 1150.43 Information to be contained in notice for small line acquisitions.

(a) The full name and address of the Class III rail carrier applicant;
(b) The name, address, and telephone number of the representative of the applicant who should receive correspondence;
(c) A statement that an agreement has been reached or details about when an agreement will be reached;
(d) The operator of the property;
(e) A brief summary of the proposed transaction, including:
   (1) The name and address of the railroad transferring the subject property to the Class III rail carrier applicant;
   (2) The proposed time schedule for consummation of the transaction;
   (3) The mileposts of the subject property, including any branch lines; and
   (4) The total route miles being acquired;
(f) A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and states; and
(g) A certificate that applicant’s projected revenues as a result of the transaction will not result in the creation of a Class II or Class I rail carrier so as to require processing under § 1150.45.

(h) Transactions imposing interchange commitments. (1) If a proposed acquisition or operation of a rail line or change of operators involves a provision or agreement that may limit future interchange with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in the purchase price or rental, positive economic inducement, or other means (“interchange commitment”), the following additional information must be provided:
   (i) The existence of that provision or agreement and identification of the affected interchange points; and
   (ii) A confidential, complete version of the document(s) containing or addressing that provision or agreement, why it may be filed with the Board under 49 CFR 1104.14(a) and will be kept confidential without need for the filing of an accompanying motion for a protective order under 49 CFR 1104.14(b).
(2) To obtain information about an interchange commitment for use in a proceeding before the Board, a shipper or other affected party may be granted access to the confidential documents filed pursuant to paragraph (h)(1) of this section by filing, and serving upon the petitioner, a “Motion for Access to Confidential Documents,” containing:
   (i) An explanation of the party’s need for the information; and
   (ii) An appropriate draft protective order and confidentiality undertaking(s) that will ensure that the documents are kept confidential.

(3) Deadlines. (i) Replies to a Motion for Access are due within 5 days after the motion is filed.
   (ii) The Board will rule on a Motion for Access within 30 days after the motion is filed.
   (iii) Parties must produce the relevant documents within 5 days of receipt of a Board approved, signed confidentiality agreement.

§ 1150.44 Caption summary.

The caption summary must be in the following form. The information symbolized by numbers is identified in the key as follows:

SURFACE TRANSPORTATION BOARD

Notice of Exemption

STB FINANCE DOCKET NO.

(1)—EXEMPTION (2)–(3)

(1) Has filed a notice of exemption to (2) (3)’s line between (4). Comments must be filed with the Board and served on (5). (6). Key to symbols:
   (1) Name of carrier acquiring or operating the line.
   (2) The type of transaction, e.g., to acquire or operate.
   (3) The transferor.
   (4) Describe the line.
   (5) Petitioner’s representative, address, and telephone number.
   (6) Cross reference to other class exemptions being used.

The notice is filed under 49 CFR 1150.41. If the notice contains false or misleading information, the exemption is void ab initio. The filing of a petition
§ 1150.45 Procedures and relevant dates—transactions under section 10902 that involve creation of Class I or Class II rail carriers.

(a) To qualify for this exemption, applicant must serve a notice of intent to file a notice of exemption no later than 14 days before the notice of exemption is filed with the Board, and applicant must comply with the notice requirement of §1150.42(e).

(b) The notice of intent must contain all the information required in §1150.43 plus:

(1) A general statement of service intentions; and

(2) A general statement of labor impacts.

(c) The notice of intent must be served on:

(1) The Governor of each state in which track is to be sold;

(2) The state(s) Department of Transportation or equivalent agency;

(3) The national offices of the labor unions with employees on the affected line(s); and

(4) Shippers representing at least 50 percent of the volume of local traffic and traffic originating or terminating on the line(s) in the most recent 12 months for which data are available (beginning with the largest shipper and working down).

(d) Applicant must also file a verified notice of exemption conforming to the requirements of paragraph (b) of this section and of §1150.44, and certify compliance with paragraphs (a), (b), and (c) of this section, attaching a copy of the notice of intent. In addition to the written submission, the notice must be submitted on a 3.5-inch diskette formatted for WordPerfect 5.1.

(e) The exemption will be effective 45 days after the notice is filed. The Board, through the Director of the Office of Proceedings, will publish a notice in the FEDERAL REGISTER within 16 days of the filing.

(f) If the notice contains false or misleading information, the exemption is void ab initio. A petition to revoke under 49 U.S.C. 10502(d) does not automatically stay the transaction. Stay petitions must be filed at least 14 days before the exemption becomes effective. Replies will be due 7 days thereafter. To be considered, stay petitions must be timely served on the applicant.

(g) Applicant must preserve intact all sites and structures more than 50 years old until compliance with the requirements of section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, is achieved.