

§ 1150.41

(d) *Third-Party Consultants.* An environmental and historic report required under 49 CFR 1105.7 and 1105.8 will not be required where a petitioner engages a third-party consultant who is approved by OEA and acts under OEA's direction and supervision in preparing the EA or EIS. In such a case, the third-party consultant must act on behalf of the Board, working under OEA's direction to collect the environmental information that is needed and to compile it into a draft EA or EIS, which is prepared under OEA's direction and then submitted to OEA for its final review and approval. See 49 CFR 1105.10(d).

[61 FR 29974, June 13, 1996, as amended at 64 FR 53268, Oct. 1, 1999; 83 FR 15079, Apr. 9, 2018]

Subpart E—Exempt Transactions Under 49 U.S.C. 10902 for Class III Rail Carriers

SOURCE: 61 FR 32355, June 24, 1996, unless otherwise noted.

§ 1150.41 Scope of exemption.

Except as indicated in paragraphs (a) through (d) of this section, this exemption applies to acquisitions or operations by Class III rail carriers under section 10902. This exemption also includes:

(a) Acquisition by a Class III rail carrier of rail property that would be operated by a third party;

(b) Operation by a Class III carrier of rail property acquired by a third party;

(c) A change in operators on such a line; and

(d) Acquisition of incidental trackage rights. Incidental trackage rights include the grant of trackage rights by the seller, or the acquisition of trackage rights to operate over the line of a third party, that occurs at the time of the purchase.

§ 1150.42 Procedures and relevant dates for small line acquisitions.

(a) This exemption applies to the acquisition of rail lines with projected annual revenues which, together with the acquiring carrier's projected annual revenue, do not exceed the annual revenue of a Class III railroad. To qual-

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ify for this exemption, the Class III rail carrier applicant must file a verified notice providing details about the transaction, and a brief caption summary, conforming to the format in § 1150.44, for publication in the FEDERAL REGISTER.

(b) The exemption will be effective 30 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. A change in operators must follow the provisions at § 1150.44, and notice must be given to shippers.

(c) 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 exemption. Stay petitions must be filed at least 7 days before the exemption becomes effective.

(d) 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.

(e) If the projected annual revenue of the rail lines to be acquired or operated, together with the acquiring carrier's projected annual revenue, exceeds \$5 million, the applicant must, at least 60 days before the exemption becomes effective, post a notice of applicant's intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions with employees on the affected line(s), setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so.

[61 FR 32355, June 24, 1996, as amended at 62 FR 47584, Sept. 10, 1997; 71 FR 62213, Oct. 24, 2006; 81 FR 8855, Feb. 23, 2016]

§ 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;