

## § 1150.35

filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

[47 FR 8199, Feb. 25, 1982. Redesignated at 47 FR 49581, Nov. 1, 1982, as amended at 53 FR 5982, Feb. 29, 1988; 69 FR 58366, Sept. 30, 2004]

### **§ 1150.35 Procedures and relevant dates—transactions that involve creation of Class I or Class II 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 § 1150.32(e).

(b) The notice of intent must contain all the information required in § 1150.33 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 is available (beginning with the largest shipper and working down).

(d) Applicant must also file a verified notice of exemption conforming to the requirements of (b) above and of § 1150.34, and certify compliance with § 1150.35 (a), (b), and (c), attaching a copy of the notice of intent.

(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 within 7 days of

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the filing of the notice of exemption. Stay petitions must be filed at least 14 days before the exemption becomes effective. To be considered, stay petitions must be timely served on the applicant.

(g) Applicant must comply with § 1150.33(g) regarding section 106 of the National Historic Preservation Act, 16 U.S.C. 470.

[53 FR 5982, Feb. 29, 1988, as amended at 53 FR 31341, Aug. 18, 1988; 62 FR 47584, Sept. 10, 1997; 69 FR 58366, Sept. 30, 2004; 71 FR 62213, Oct. 24, 2006]

### **§ 1150.36 Exempt construction of connecting track.**

(a) *Scope.* This class exemption applies to proceedings involving the construction and operation of connecting lines of railroad within existing rail rights-of-way, or on land owned by connecting railroads, under 49 U.S.C. 10901 (a), (b), and (c). (See the reference to connecting track in 49 CFR 1105.6(b)(1).) This class exemption is designed to expedite and facilitate connecting track construction while ensuring full and timely environmental review. The Surface Transportation Board (Board) has found that its prior review of connecting track construction and operation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; that continued regulation is not necessary to protect shippers from abuse of market power; and that the construction of connecting track would be of limited scope. See 49 U.S.C. 10502. To use this class exemption, a pre-filing notice, environmental report, historic report, and notice of exemption must be filed that complies with the procedures in § 1150.36 (b) and (c), and the Board's environmental rules, codified at 49 CFR part 1105.

(b) *Environmental requirements.* The environmental regulations at 49 CFR part 1105 must be complied with fully. An environmental report containing the information specified at 49 CFR 1105.7(e), as well as an historic report containing the information specified at 49 CFR 1105.8(d), must be filed either before or at the same time as the notice of exemption is filed. See 49 CFR 1105.7(a). The entity seeking the exemption authority must also serve copies of the environmental report on the