that purpose). Applications shall be made under oath and shall contain an appropriate certification (if a corporation, by its secretary) showing that the affiant is duly authorized to verify and file the application. Any persons controlling an applicant shall also sign the application.

(d) *Related applications.* Applicant shall file concurrently all directly related applications (e.g., to issue securities, control motor carriers, obtain access to terminal operations, acquire trackage rights). All such applications will be considered with the main application.

(e) *Service.* As soon as the docket number is obtained the applicant shall serve a conformed copy of the application by first-class mail upon the Governor (or Executive Officer), Public Service Board, and Department of Transportation of each State in which any part of the properties involved in the proposed transaction is located. Within 2 weeks of filing, applicant shall submit to the Board a copy of the certificate of service indicating that all persons so designated have been served a copy of the application.

(f) *Publication.* Within 2 weeks of filing, applicant shall have published the summary of the application (prepared under §1150.9) in a newspaper of general circulation in each county in which the line is located. The notice should inform interested parties of the date by which they must advise the Board of their interest in the proceeding. This date shall be calculated as the 35th day after the filing of the application which is neither a Saturday, Sunday, or legal holiday in the District of Columbia. Applicant must file an affidavit of publication immediately after the publication has been completed. The Board will, as soon as practicable, either publish the notice summary in the FEDERAL REGISTER or reject the application if it is incomplete.

(g) *Public participation.* Written comments (with 10 copies) must be filed within 35 days of the filing of the application. Comments must contain the basis for the party's position either in support or opposition. Applicant must be served with a copy of each comment. On the basis of the comments and the assessment by the Section of Environmental Analysis, the Board will decide if a hearing is necessary. A hearing may be either oral or through receipt of written statements (modified procedure). (See 49 CFR 1112.1 *et seq.*) If there is no opposition to the application, additional evidence normally need not be filed, and a decision will be reached using the information in the application.

(h) *Replies to written comments.* Applicant's replies will be considered by the Board provided they are filed and served within 5 days of the due date of the pleadings they address.

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Subpart B—Designated Operators

§1150.11 Introduction.

A certificate of designated operator will be issued to an operator providing service pursuant to a rail service continuation agreement under section 304 of the Regional Rail Reorganization Act of 1973, as amended by the Railroad Revitalization and Regulatory Reform Act of 1976. The designated operator (D–OP) may commence and terminate the service in accordance with the terms of the agreement. When service is terminated the D–OP must notify all shippers on the line. To obtain a D–OP certificate, the information in this subpart must be filed with the Board. A copy of the certificate of designated operator shall be served on the Association of American Railroads.

§1150.12 Information about the designated operator.

(a) The name and address of the D–OP.

(b) If a new corporation or other new business entity, a copy of the certificate of incorporation or, if unincorporated, the facts and official organizational documents relating to the business entity.

(c) The names and addresses of all officers and directors, with a statement from each which indicates present affiliation, if any, with a railroad.

(d) Sufficient information to establish its financial responsibility for the proposed undertaking, unless the D–OP

is a common carrier by railroad. The nature and extent of all liability insurance coverage, including insurance binder or policy number, and name of insurer.

§1150.13 Relevant dates.

The exact dates of the period of operation which have been agreed upon by the D–OP, the offeror of the rail service continuation payment, and the owner of the line to be operated, in their lease and operating agreements.

§1150.14 Proposed service.

(a) A copy of all agreements between the D–OP, the offeror of the rail service continuation payment, and the owner of the line to be operated.

(b) Any additional information which is necessary to provide the Board with a description of:

(1) The line over which service is to be provided (e.g., U.S.R.A. Line); and

(2) All interline connections, including the names of the connecting railroads.

§1150.15 Information about offeror.

(a) The name and address of the offeror of the rail service continuation payment.

(b) Sufficient information to establish the financial responsibility of the offeror for the proposed undertaking, or if the offeror is a State or municipal corporation or authority, a statement that it has authority to perform the service or enter into the agreement for subsidy.

§1150.16 Procedures.

Upon receipt of this information, the matter will be docketed by the prefix initials ''D–OP.'' Operators may begin operating immediately upon the filing of the necessary information (plus three copies). Although the designated operator will not be required to seek and obtain authority from the Board either to commence or to terminate operations, the designated operator is a common carrier by railroad subject to all other applicable provisions of 49 U.S.C. Subtitle IV. However, we have exempted designated operators from some aspects of regulation. *See Exemption of Certain Designated Operators from Section 11343*, 361 ICC 379 (1979), as modified by *McGinness* v. *I.C.C.*, 662 F.2d 853 (D.C. Cir. 1981).

[47 FR 8199, Feb. 25, 1982. Redesignated at 47 FR 49581, Nov. 1, 1982, and amended at 64 FR 53268, Oct. 1, 1999]

Subpart C—Modified Certificate of Public Convenience and Necessity

§1150.21 Scope of rules.

These special rules apply to operations over abandoned rail lines, which have been acquired (through purchase or lease) by a State. The rail line must have fully abandoned, or approved for abandonment by the Board or a bankruptcy court. As used in these rules, the term ''State'' includes States, political subdivisions of States, and all instrumentalities through which the State can act. An operator has the option of applying for a modified certificate of public convenience and necessity under this subpart or a common carrier certificate under Subpart A of this part. A copy of the modified certificate shall be served on the Association of American Railroads.

§1150.22 Exemptions and common carrier status.

The acquisition by a State of a fully abandoned line is not subject to the jurisdiction of the Surface Transportation Board. The acquisition by a State of a line approved for abandonment and not yet fully abandoned is exempted from the Board's jurisdiction. If the State intends to operate the line itself, it will be considered a common carrier. However, when a State acquires a rail line described under §1150.21 and contracts with an operator to provide service over the line, only the operator incurs a common carrier obligation. The operators of these lines are exempted from 49 U.S.C. 10901 and 10903 which are the statutory requirements governing the start up and termination of operations. Operators exempted from these requirements must comply with the requirements of this part and must apply for a modified certificate of public convenience and necessity. The operator is a common carrier and incurs all benefits and responsibilities under 49 U.S.C. subtitle