

BEFORE THE SURFACE TRANSPORTATION BOARD  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C. 20423

MAR 12 2012

FINANCE DOCKET NO. 35608

NORTH LOUISIANA & ARKANSAS RAILROAD, INC.—LEASE AND OPERATION  
EXEMPTION--LINE OF SOUTHEASTERN ARKANSAS ECONOMIC  
DEVELOPMENT DISTRICT

VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 C.F.R. § 1150.41

Pursuant to 49 C.F.R. § 1150.41, et seq., North Louisiana & Arkansas Railroad, Inc. ("NLA"), a Class III common carrier by rail, hereby files this Verified Notice of Exemption to lease and operate a line of railroad owned by the Southeastern Arkansas Economic Development District ("SAEDD"), a political subdivision of the State of Arkansas, which is a non-carrier.

**INFORMATION REQUIRED BY 49 C.F.R. § 1150.43**

**FEE RECEIVED**

(a) The full name and address of the applicant:

North Louisiana & Arkansas Railroad, Inc.  
4416 South Arkansas Ave.  
Russellville, Arkansas 72802

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(b) The name, address, and telephone number of the representative of the applicant who should receive correspondence:

Richard H. Streeter  
Law Office of Richard H. Streeter  
5255 Partridge Lane, N.W.  
Washington, D.C. 20016

ENTERED  
Office of Proceedings

MAR 13 2012

Part of  
Public Record

**FILED**

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(c) A statement that an agreement has been reached or details about when an agreement will be reached:

NLA has reached an agreement with SAEDD whereby NLA will lease a line of railroad between MP 433.0, at or near Lake Village, in Chicot County,

AR, to MP 454.8, at or near the Louisiana/Arkansas border. A copy of the Lease Agreement is attached as Exhibit 1.

NLA will commence operations on the line after Board authorization is obtained and the line is rehabilitated to the point that rail operations can be safely performed. At present, the line is impassable.

(d) The operator of the property:

NLA is a Class III common carrier by rail. Following completion of the needed rehabilitation, NLA will conduct rail freight operations over the line. NLA will interchange traffic with Union Pacific Railroad, Arkansas Midland Railroad Company and DSR.

(e) A brief summary of the proposed transaction, including:

(1) The name and address of the railroad transferring the subject property,

(2) The proposed time schedule for consummation of the transaction,

(3) The mile-posts of the subject property, including any branch lines,  
and

(4) The total route miles being acquired.

The trackage is being leased from SAEDD, which is a non-carrier. Its address is 721 South Walnut, Pine Bluff, AR 71601. The initial term of the Railway Lease Agreement shall be for a twenty (20) year period, beginning on the effective date of the Board's decision that approves NLA's operations on the subject tracks. The leased track consists of 21.8 miles of mainline track between milepost 433.0, at or near Lake Village, in Chicot County, AR, and milepost 454.8, at or near the Louisiana/Arkansas border.

(f) A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and States.

See Exhibit 2 attached hereto.

(g) A certificate that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier.

NLA hereby certifies that its projected revenues do not exceed those that would qualify it as a Class III carrier. NLA further certifies that its projected revenues are less than \$5 million. Therefore, no notice is required pursuant to the provisions of 49 C.F.R. § 1150.42(e).

(h) Transactions imposing interchange commitments.

The proposed transaction does not involve a provision or agreement limiting future interchange with a third-party connecting carrier as described in 49 C.F.R. § 1150.43(h).

A caption summary as required by 49 C.F.R. § 1150.44 is filed herewith.

Respectfully submitted,



Richard H. Streeter  
Law Office of Richard H. Streeter  
5255 Partridge Lane, N.W.  
Washington, D.C. 20016  
(202) 363-2011

Dated: March 12, 2012

**VERIFICATION**

I, Daniel B. Robbins, Vice President of North Louisiana & Arkansas Railroad, Inc., verify under penalty of perjury that the information contained in the foregoing Verified Notice of Exemption is true and correct to the best of my knowledge, information and belief. I further certify that I am qualified and authorized to file this Verified Notice of Exemption.



Daniel B. Robbins

**Exhibit No. 1**  
**Lease Agreement**

**RAILWAY LEASE AGREEMENT**

This Lease Agreement ("Lease") is made on November \_\_, 2011, between the following parties:

**Lessor:** Southeast Arkansas Economic Development District, Inc  
("SAEDD" or "Lessor")  
Address: 721 South Walnut, Pine Bluff, AR 71601  
Mailing Address: P.O. Box 6806, Pine Bluff, AR 71611  
Telephone: (870) 536-1971  
Post to the attention of Glenn Bell

**Lessee:** North Louisiana & Arkansas Railroad, Inc. ("NLA" or  
"Lessee")  
Address: 4426 S. Arkansas Ave., Russellville, AR 72802  
Telephone: (479)968-6455  
Post to the attention of Daniel B. Robbins, Vice President

**RECITALS**

A. Lessor owns a line of railroad consisting of 21.8 miles of track that extends from Mile Post 433.0, at or near Lake Village, in Chicot County, AR, to Mile Post 454.8 at the Arkansas/Louisiana State Line "Trackage" or "Leased Premises". See original deed and map attached hereto as Attachment 1.

B. Lessor does not operate a railroad system on that length of Trackage.

C. Lessee, whose lines of railroad connect with the above-described Trackage, desires to lease the Trackage, and other interests in land as described herein, from Lessor to conduct common carrier railroad operations over the Trackage.

D. Lessor desires to lease the Trackage, and other interests in land as described herein to Lessee.

E. Lessor desires to retain and does retain the right to underground right of ways to present and future utilities with written notice presented to the Lessor 30 days prior to the execution of any new lease.

NOW THEREFORE, in consideration of the matters described above, and of the mutual benefits and obligations set forth in this Lease, and intending to be legally bound, the parties agree as follows:

**SECTION ONE**  
**LEASED PREMISES**

1.1 Lessor does hereby lease to Lessee, and Lessee does hereby lease from Lessor, the Leased Premises described in the Recitals above, which are incorporated into the body of this document by reference, and the property described in Section 1.2.

a. The Leased Premises shall include, without limitation, right-of-way, tracks, rails, ties, ballast, other track materials, switches, crossings, bridges, culverts, buildings, crossing warning devices and any and all improvements or fixtures affixed to the right-of-way.

b. Any personal property not owned by Lessor or not affixed to the land shall be removed from the Leased Premises by Lessor within thirty (30) days after the Commencement Date (which is defined in Section 2.1). Any items not so removed shall be deemed included in the Leased Premises.

1.2 In consideration for Lessee's agreement to operate over the Leased Premises described in 1.1.a, Lessor, at no additional charge, does hereby lease to Lessee, and Lessee does hereby lease from Lessor, certain ground space on which Lessee shall locate and maintain an office ("Office Tract") as more particularly described in APPENDIX "A".

1.3 Except as provided elsewhere in this Lease, Lessee shall take the Leased Premises in an "AS IS, WHERE IS" condition and without any express or implied warranties, including but not limited to any warranties of merchantability or volume or quality of traffic on the Leased Premises. It is expressly understood and agreed that the Trackage is currently designated "Excepted Track," as defined by the Federal Railroad Administration ("FRA") in its regulations governing Track Safety Standards at 49 C.F.R. § 213.4, and that all common carrier railroad operations performed by Lessee over the Trackage must comply with the aforesaid regulations.

**SECTION TWO**  
**TERM**

2.1 The initial term of this Lease shall be for a twenty (20) year period, beginning on the date that the Surface Transportation Board (STB) approves this Lease ("Commencement Date"), and ending twenty (20) years later.

2.2 The term of this Lease and the Termination Date shall be automatically extended for additional twenty (20) year periods under the same terms and conditions as contained herein.

2.3 Either party may terminate the automatic extension of the term and the termination date of this Lease by providing written notice thereof to the other party ninety (90) days prior to the end of the then current lease year.

**SECTION THREE**  
**RAIL SERVICE**

3.1 Beginning on the Commencement Date and throughout the term of this Lease, Lessee shall be entitled to full and exclusive use of the Leased Premises for the operation of rail freight service, including the right to access and interchange traffic directly with all present and future railroads. During the term hereof, Lessee shall not grant to any third party the right to operate over the Leased Premises, nor shall Lessee use the Leased Premises for any purpose other than for rail freight service and activities ancillary thereto.

3.2 During the term of this Lease, Lessee will not permanently suspend or discontinue the operation by rail over all or any part of the Leased Premises without first applying for and obtaining from the STB, or any successor agency, and any other regulatory agency with jurisdiction, any necessary certificate of public convenience and necessity or other approvals or exemptions from regulation for such discontinuance of operations over the Leased Premises; provided, however, that Lessee will not seek such regulatory authority, or if no regulatory authority is needed, take any action to suspend or discontinue its operations on the Leased Premises, without first giving Lessor sixty (60) days' notice of Lessee's intent to do so. Notwithstanding the foregoing, Lessee may, without such prior notice, temporarily embargo its operations over all or any part of the Leased Premises due to events of force majeure or other temporary disabilities.

**SECTION FOUR**  
**RENT**

4.1 Lessee shall pay to Lessor during the term of this lease the sum of the following amounts:

- a. \_\_\_\_\_ of the freight revenue per loaded car bridged over the Leased Premises; and
- b. \_\_\_\_\_ of the freight revenue for traffic originated or terminated on the Leased Premises;

c. "Freight revenue" is defined herein to mean payment received by NLA for the transportation of railcars, but excludes demurrage and energy surcharge payments.

4.2 Payment of rent shall be due monthly on the last Thursday of every month for the prior month's revenue car movements. Lessee shall file with Lessor a monthly inventory of prior month's revenue car movement with Lessee's monthly rental payment.

**SECTION FIVE**  
**LESSOR'S OBLIGATIONS**

5.1 Prior to the NLA's obligation to operate on the Leased Premises, the Lessor shall rehabilitate or re-build the Leased Premises (included but not limited to improvements necessitated by an Act of God) to a Class 1 condition as defined by FRA in its regulations currently published at 49 C.F.R. § 213.9, or as otherwise amended or re-codified during the term of this lease. . In addition, Lessor shall be responsible for the cost of rebuilding and rehabilitating the Leased Premises to Class 2 status as defined by FRA in its regulations currently published at 49 C.F.R. § 213.9, or as otherwise amended or re-codified during the initial term of this lease. Such costs for rebuilding and rehabilitating the Leased Premises shall be deemed "Capitalized Maintenance Costs."

5.2 Should NLA for any reason be required to pay any Capitalized Maintenance Costs, such payments shall be deducted from any rent that is due Lessor until such amount has been repaid in full. Prior to commencing any rebuilding and rehabilitation of the Leases Premises, NLA shall notify SAEDD of the need for such rebuilding and rehabilitation and provide an estimate of the costs to be incurred. In addition, NLA shall request prepayment of such costs by SAEDD. SAEDD shall promptly, within ten (10) business days, notify NLA whether it will prepay all or a portion of the costs or whether it elects to have NLA assume the cost of such rebuilding and rehabilitation subject to the first sentence of this subsection. Should SAEDD fail to respond within ten (10) days, it shall be deemed to have authorized NLA to proceed immediately with rebuilding and rehabilitation subject to the first sentence of this subsection.

**SECTION SIX**  
**LESSEE'S OBLIGATIONS**

6.1 Lessee shall have the right to use the Leased Premises as frequently and in any manner that Lessee shall deem proper, but shall not unreasonably interfere with adjoining property or the occupants thereof.

6.2 Lessee shall maintain the Leased Premises to the same track standard that governs freight rail operations over the Leased Premises on the Commencement Date, which standard is acknowledged to be sufficient to continue rail freight service commensurate with the needs of users of NLA's freight rail service.

6.3 Lessee may erect, construct or install any structures, guards or devices at Lessee's expense, to facilitate the operation or safety of Lessee's equipment on the Leased Premises. Lessee may add and/or relocate switches and industrial tracks from one location on the Leased Premises to another location on the Leased Premises upon receiving any necessary and proper regulatory authority. Lessee will notify Lessor of such movement or relocation prior to doing so.

6.4 Lessee shall keep all rails, facilities and materials that are part of the Leased Premises and all materials afterwards installed by Lessee after the Commencement Date in a clean and operational condition and in good repair and shall be responsible at its cost for the routine maintenance and repair of all of the Leased Premises.

6.5 Lessee shall use standard construction practices in the maintenance and repair of the existing Trackage and any new Trackage that might be installed.

**SECTION SEVEN**  
**TAXES**

7.1 Lessor shall be responsible for and pay the real property taxes on the Leased Premises.

7.2 Lessee shall pay on or before the last day on which payment may be made without penalty or interest, all personal property taxes, assessments (including special assessments) or other governmental charges that shall or may during the Lease term be imposed on, or arise in connection with its use of, the Leased Premises or any part of the Leased Premises or the business done on the Railway.

**SECTION EIGHT**  
**UTILITIES**

Lessee shall arrange for and bear the cost of all utility services furnished to the Leased Premises.

**SECTION NINE**  
**INSURANCE**

Lessee shall insure and keep insured the property of Lessor covered by this Lease, with Railroad liability insurance which provides third party liability coverage in the amount of not less than ten million dollars (\$10,000,000), naming the Lessor as additional insured. Lessee shall provide proof of insurance to Lessor at least annually and shall require its insurer to provide notice to Lessor in the event the coverage is terminated or expires.

**SECTION TEN**  
**INDEMNITY**

Lessee shall indemnify Lessor against all liability for personal injury or property damage arising from the Lessee's operation of a railroad system on the Railway and including Lessor's legal fees and costs incurred in enforcing this indemnity or in defending any action brought against it arising from Lessee's operation.

**SECTION ELEVEN**  
**DEFAULT**

Lessor may declare a default hereunder if Lessee shall:

- (a) fail to report the revenue car movement (or freight revenue if it is used to calculate rent) and pay the rent required by this Lease when due and continue its failure to report and pay the rent for a period of thirty (30) days from the date of the notice from Lessor of its failure to pay; or
- (b) fail to perform the conditions of this Lease and that failure shall continue for a period of ninety (90) days from the date of written notice from Lessor.

Upon either event occurring, the Lessor may declare a default by written notice and elect to either (a) terminate this Lease and re-enter the Premises (in which instance, Lessee shall agree to support Lessor and/or its designee in obtaining authority from the STB to transfer operating authority to Lessor and/or its designee and to seek the adverse abandonment and discontinuance of Lessee's authority to operate over the Railway), or (b) pursue an action for specific performance of this Lease, or (c) pursue an action to recover a money judgment for past due and unpaid rent, or a combination thereof.

**SECTION TWELVE**  
**RETURN OF PREMISES**

Upon the termination or expiration of this Lease, Lessee, subject to STB authorization, shall surrender the Premises and all improvements and betterments made by Lessee to Lessor. With the exception of all Trackage, switches and appurtenants thereto installed by the Lessee, Lessee may remove any other structures or equipment that Lessee placed on the Leased Premises, at Lessee's expense, providing Lessee returns the Premises to Lessor undamaged. If Lessee does not remove any structure or equipment placed on the Premises by Lessee, Lessor shall have the option to either treat the property as belonging to Lessor, or to remove the property at Lessee's expense.

**SECTION THIRTEEN**  
**RIGHT OF FIRST REFUSAL**

Should Lessor propose to sell all or a portion of the Leased Premises, Lessor agrees that it shall offer the right of first refusal with respect to the Leased Premises or portion thereof to Lessee. Lessor also agrees to grant Lessee the right to match the last best offer should any third party seek to purchase all of any portion of the Leased Premises.

**SECTION FOURTEEN**  
**FORCE MAJEURE**

Lessee shall have no obligation to operate over any portion of the Leased Premises as to which it is prevented from operating by Acts of God, public authority, strikes, riots, labor disputes, or any cause beyond its control; provided, however, Lessee shall use its best efforts to take whatever action is necessary or appropriate to be able to resume its operations. In the event of damage or destruction caused by an Act of God, Lessee shall commence repairs within ten (10) days of the occurrence causing same and shall pursue such repairs with reasonable diligence.

**SECTION FIFTEEN**  
**GOVERNING LAW**

This Lease shall be governed by, construed and enforced in accordance with the laws of the State of Arkansas. Lessee's operations under this Lease shall also comply with the applicable provisions of Federal law and the applicable rules, regulations and policies of any agency thereof.

**SECTION SIXTEEN**  
**ENTIRE AGREEMENT**

This Lease constitutes the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Lease shall not be binding on either party except to the extent incorporated in this Lease.

**SECTION SEVENTEEN**  
**AMENDMENTS**

No modification, addition or amendments to this Lease shall be effective unless and until such modification, addition or amendment is in writing and signed by the parties.

**SECTION EIGHTEEN**  
**SEVERABILITY**

If any provision in this Agreement is held invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain operative and in full force and effect. If any provision is held invalid, illegal or unenforceable, the parties agree to negotiate a revised or replacement provision.

**SECTION NINETEEN**  
**COUNTERPARTS**

This Lease may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

**SECTION TWENTY**  
**NOTICES**

All notices, demands or other writings in this Lease provided to be given or made or sent, or that may be given or made or sent, by either party to the other, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States mail, registered and postage prepaid, and addressed to the parties at the addresses shown on page 1 of this lease, or as the parties may otherwise direct from time to time.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be duly executed on their behalf as of the date first herein written.

Lessor:  
Southeast Arkansas Economic Development District, Inc.

By: \_\_\_\_\_

\_\_\_\_\_  
Witness

Its: \_\_\_\_\_

\_\_\_\_\_  
Witness

Lessee:  
Northern Louisiana & Arkansas Railroad, Inc.

By: *[Signature]*

*Kathleen Coffman*  
Witness

Its: President

*[Signature]*  
Witness

*Acknowledgement*

State of Arkansas    )  
                                  )  
County of Pope        )

ss

On this 28th day of November, 2011, before me, Melissa Courtwright, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named Timothy K. Robbins, being the person authorized by said corporation to execute such instrument, stating their respective capacities in that behalf, and to me personally well known, who stated that he was the President of the Northern Louisiana and Arkansas Railroad, Inc., and was duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

“IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 28<sup>th</sup> day of November, 2011.

04/09/2014  
My Commission Expires  
  
Melissa Courtwright  
Notary Public  
Melissa Courtwright  
Printed Name

*Acknowledgement*

State of Arkansas )  
 )  
County of \_\_\_\_\_ )      *ss*

On this \_\_\_\_ day of \_\_\_\_\_, 2011, before me, \_\_\_\_\_, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named \_\_\_\_\_, being the person authorized by said corporation to execute such instrument, stating their respective capacities in that behalf, and to me personally well known, who stated that he was the \_\_\_\_\_ of the Southeast Arkansas Economic Development District, Inc. and was duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said entity, and further stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
My Commission Expires

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name

APPENDIX A

**LOCATION:** Site of the former railroad depot at Eudora, Arkansas

**TERMS:** (1) The Office Tract has been or will be chosen from the Leased Premises, its location to be reasonably identified by both parties as suitable for its purposes, and it shall not be represented by a parcel not included in the Leased Premises.

(2) The lease term of the Office Tract shall be consistent with the Lease.

(3) After the parties identify a suitable site, the office shall be constructed or reconstructed in accordance with the established practices in the railroad industry.

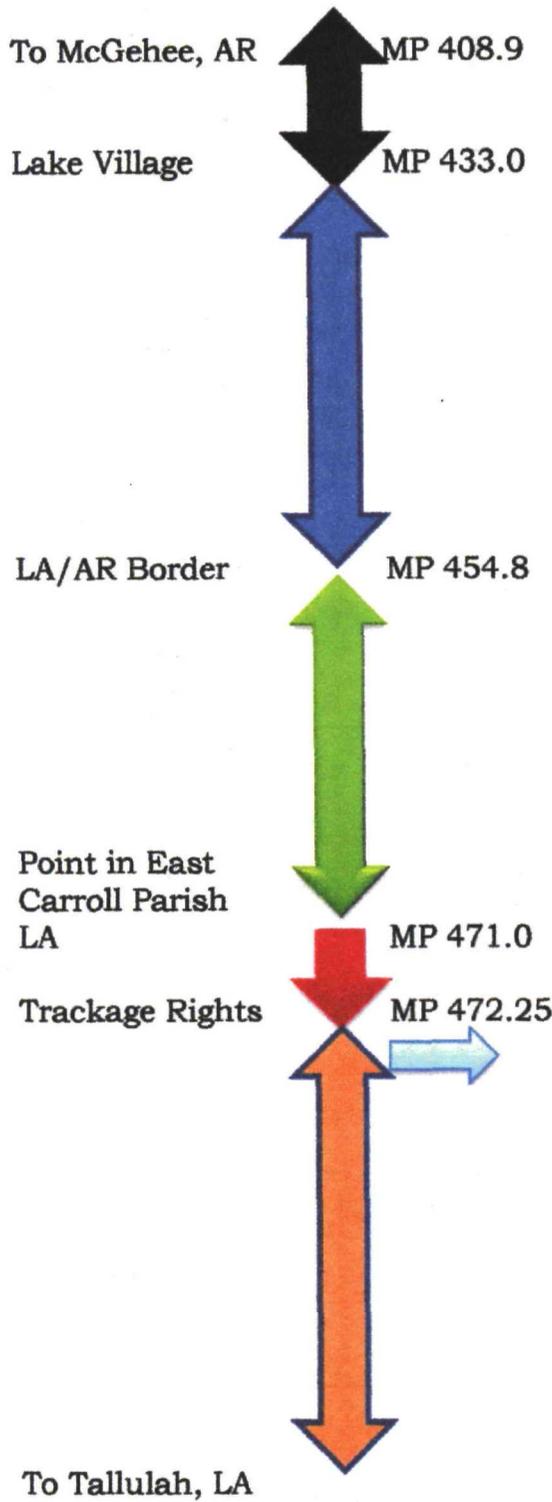
(4) Its use and occupancy shall be in the nature of a ground lease. It shall be utilized in accordance with the Lease, including but not limited to Sections six, nine and twelve.

**Exhibit No. 2**

**Maps**

STB DOCKET NOS. FD 35608, 35609, AND 35610

MAPS (NOT TO SCALE)



- FD 35608 
- FD 35609 
- FD 35610 
- Delta Southern Track 
- NLA Track 
- LPPC LEAD Track 

**Exhibit No. 3**

**Caption Summary**

**SURFACE TRANSPORTATION BOARD**

***Notice of Exemption***

FINANCE DOCKET NO. 35608

***North Louisiana & Arkansas Railroad, Inc.—Lease and Operation  
Exemption--Line of Southeastern Arkansas Economic Development District***

North Louisiana & Arkansas Railroad, Inc. ("NLA") has filed a notice of exemption to lease certain tracks owned by Southeastern Arkansas Economic Development District that are wholly located in Chicot County, Arkansas. The trackage consists of 21.8 miles of mainline track between milepost 433.0, at or near Lake Village, in Chicot County AR, and milepost 454.8, at or near the Louisiana/Arkansas border. Comments must be filed with the Board and served on Richard H. Streeter, Law Office of Richard H. Streeter, 5255 Partridge Lane, N.W., Washington, D.C. 20016. (202) 363-2011.

The notice is filed under § 1150.41. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.