

## Surface Transportation Board, DOT

## §1152.20

amendment or otherwise, on the carrier's system diagram map or narrative, as appropriate, as a line in category 1 (§1152.10(b)(1)) for at least 60 days.

### §1152.14 Availability of data.

Each carrier shall provide to the designated state agency, upon request, information concerning the net liquidation value (as defined in §1152.34(c)) of any line placed in category 1 (§1152.10(b)(1)) on its system diagram map or narrative together with a description of such a line and any appurtenant facilities and of their condition.

### §1152.15 Reservation of jurisdiction.

49 U.S.C. 10903(c)(1) authorizes the Board, at its discretion, to provide for designation of lines as "potentially subject to abandonment" under standards which vary by region of the United States, by railroad, or by group of railroads. The Board expressly reserves the right to adopt such varying standards in the future.

## Subpart C—Procedures Governing Notice, Applications, Financial Assistance, Acquisition for Public Use, and Trail Use

### §1152.20 Notice of intent to abandon or discontinue service.

(a) *Filing and publication requirements.* An applicant shall give Notice of Intent to file an abandonment or discontinuance application by complying with the following procedures:

(1) *Filing.* Applicant must serve its Notice of Intent on the Board, by certified letter, in the format prescribed in §1152.21. The Notice shall be filed in accordance with the time requirements of paragraph (b) of this section.

(2) *Service.* Applicant must serve, by first-class mail (unless otherwise specified), its Notice of Intent upon:

- (i) Significant users of the line;
- (ii) The Governor (by certified mail) of each state directly affected by the abandonment or discontinuance;
- (iii) The Public Service Commission (or equivalent agency) in these states;
- (iv) The designated state agency in these states;

(v) The State Cooperative Extension Service in these states;

(vi) The U.S. Department of Transportation (Federal Railroad Administration);

(vii) Department of Defense (Military Traffic Management Command, Transportation Engineering Agency, Railroads for National Defense Program);

(viii) The U.S. Department of Interior (Recreation Resources Assistance Division, National Park Service);

(ix) The U.S. Railroad Retirement Board;

(x) The National Railroad Passenger Corporation ("Amtrak") (if Amtrak operates over the involved line);

(xi) The headquarters of the Railroad Labor Executives' Association;

(xii) The U.S. Department of Agriculture, Chief of the Forest Service; and

(xiii) The headquarters of all duly certified labor organizations that represent employees on the affected rail line. For purposes of this subsection "directly affected states" are those in which any part of a line sought to be abandoned is located.

(3) *Posting.* Applicant must post a copy of its Notice of Intent at each agency station and terminal on the line to be abandoned. (If there are no agency stations on the line, the Notice of Intent should be posted at any agency station through which business for the involved line is received or forwarded.)

(4) *Newspaper publication.* Applicant must publish its Notice of Intent at least once during each of 3 consecutive weeks in a newspaper of general circulation in each county in which any part of the involved line is located.

(b) *Time limits.* (1) The Notice of Intent must be served at least 15 days, but not more than 30 days, prior to the filing of the abandonment application;

(2) The Notice must be posted and fully published within the 30-day period prior to the filing of the application; and

(3) The Notice must be filed with the Board either concurrently with service or when the Notice is first published (whichever occurs first).

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(c) *Environmental and Historic Reports.* Applicant must also submit the Environmental and Historic Reports described at §§1105.7 and 1105.8 at least 20 days prior to filing an application.

### §1152.21 Form of notice.

The Notice of Intent to abandon or to discontinue service shall be in the following form:

STB No. AB \_\_\_\_\_ (Sub-No. \_\_\_\_\_)  
Notice of Intent to Abandon or to Discontinue Service

(Name of Applicant) gives notice that on or about (insert date application will be filed with the Board) it intends to file with the Surface Transportation Board, Washington, D.C. 20423, an application for permission for the abandonment of (the discontinuance of service on), a line of railroad known as \_\_\_\_\_ extending from railroad milepost near (station name) to (the end of line or rail milepost) near (station name), which traverses through United States Postal Service ZIP Codes (ZIP Codes), a distance of \_\_\_\_\_ miles, in [County(ies), State(s)]. The line includes the stations of (list all stations on the line in order of milepost number, indicating milepost location).

The reason(s) for the proposed abandonment (or discontinuance) is (are) \_\_\_\_\_ (explain briefly and clearly why the proposed action is being undertaken by the applicant). Based on information in our possession, the line (does) (does not) contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

This line of railroad has appeared on the system diagram map or included in the narrative in category 1 since (insert date).

The interest of railroad employees will be protected by (specify the appropriate conditions).

The application will include the applicant's entire case for abandonment (or discontinuance) (case in chief). Any interested person, after the application is filed on (insert date), may file with the Surface Transportation Board written comments concerning the proposed abandonment (or discontinuance) or protests to it. These filings are due 45 days from the date of filing of the application. All interested persons should be aware that following any abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (§1152.28 of the Board's rules) and any request for a trail use condition under 16 U.S.C. 1247(d) (§1152.29 of the Board's rules) must also be filed within 45 days from the date of filing of the application. Persons who may oppose the abandonment or discontinuance

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but who do not wish to participate fully in the process by appearing at any oral hearings or by submitting verified statements of witnesses, containing detailed evidence, should file comments. Persons interested only in seeking public use or trail use conditions should also file comments. Persons opposing the proposed abandonment or discontinuance that do wish to participate actively and fully in the process should file a protest.

Protests must contain that party's entire case in opposition (case in chief) including the following:

(1) Protestant's name, address and business.

(2) A statement describing protestant's interest in the proceeding including:

(i) A description of protestant's use of the line;

(ii) If protestant does not use the line, information concerning the group or public interest it represents; and

(iii) If protestant's interest is limited to the retention of service over a portion of the line, a description of the portion of the line subject to protestant's interest (with milepost designations if available) and evidence showing that the applicant can operate the portion of the line profitably, including an appropriate return on its investment for those operations.

(3) Specific reasons why protestant opposes the application including information regarding protestant's reliance on the involved service [this information must be supported by affidavits of persons with personal knowledge of the fact(s)].

(4) Any rebuttal of material submitted by applicant.

In addition, a commenting party or protestant may provide a statement of position and evidence regarding:

(i) Intent to offer financial assistance pursuant to 49 U.S.C. 10904;

(ii) Environmental impact;

(iii) Impact on rural and community development;

(iv) Recommended provisions for protection of the interests of employees;

(v) Suitability of the properties for other public purposes pursuant to 49 U.S.C. 10905; and

(vi) Prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and §1152.29.

A protest may demonstrate that: (1) the protestant filed a feeder line application under 49 U.S.C. 10907; (2) the feeder line application involves any portion of the rail line involved in the abandonment or discontinuance application; (3) the feeder line application was filed prior to the date the abandonment or discontinuance application was filed; and (4) the feeder line application is pending before the Board.