

## §1152.23

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

(iii) A request for a public use condition under 49 U.S.C. 10905; and

(iv) A statement pertaining to prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and §1152.29.

Parties seeking information concerning the filing of protests should refer to §1152.25.

Written comments and protests, including all requests for public use and trail use conditions, must indicate the proceeding designation STB No. AB-\_\_\_\_ (Sub-No. \_\_\_\_ ) and should be filed with the Secretary, Surface Transportation Board (Board), Washington, DC 20423, no later than (insert the date 45 days after the date applicant intends to file its application). Interested persons may file a written comment or protest with the Board to become a party to this abandonment (or discontinuance) proceeding. A copy of each written comment or protest shall be served upon the representative of the applicant (insert name, address, and phone number). The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

The line sought to be abandoned (or discontinued) will be available for subsidy or sale for continued rail use, if the Board decides to permit the abandonment (or discontinuance), in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49 CFR 1152.27). No subsidy arrangement approved under 49 U.S.C. 10904 shall remain in effect for more than 1 year unless otherwise mutually agreed by the parties (49 U.S.C. 10904(f)(4)(B)). Applicant will promptly provide upon request to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation. The carrier's representative to whom inquiries may be made concerning sale or subsidy terms is (insert name and business address).

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs

## 49 CFR Ch. X (10-1-01 Edition)

in these abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

(j) *Verification.* The original application shall be executed and verified in the form set forth below by an officer of the carrier having knowledge of the facts and matters relied upon.

### Verification

State of \_\_\_\_\_ ss.

County of \_\_\_\_\_

\_\_\_\_\_, (Name of affiant) makes oath and says that (s)he is the \_\_\_\_\_ (title of affiant) of the \_\_\_\_\_ (name of applicant) applicant herein; that (s)he has been authorized by the applicant (or as appropriate, a court) to verify and file with the Surface Transportation Board the foregoing application in STB AB-\_\_\_\_ (Sub-No. \_\_\_\_); that (s)he has carefully examined all of the statements in the application as well as the exhibits attached thereto and made a part thereof; that (s)he has knowledge of the facts and matters relied upon in the application; and that all representations set forth therein are true and correct to the best of his(her) knowledge, information, and belief.

(Signature)

Subscribed and sworn to before me \_\_\_\_\_ in and for the State and County above named, this \_\_\_\_ day of \_\_\_\_, 19\_\_.

My Commission expires

### §1152.23 [Reserved]

### §1152.24 Filing and service of application.

(a) An original and 10 copies of applications, typewritten or printed on paper approximately 8½ inches by 11 inches with 1½ inch left margin, shall be filed with the Secretary of the Surface Transportation Board, Washington, DC 20423. The original shall bear the date and signature and shall be complete in itself; the signature may be stamped or typed and the notarial seal may be omitted on the copies. A check, money order or payment by credit card payable to the Surface Transportation Board must also be submitted to cover the applicable filing fee. If the applicant carrier is in bankruptcy, the application shall also be filed on the bankruptcy court.

(b) The applicant shall tender with its application an affidavit attesting to its compliance with the notice requirement of §1152.20. The affidavit shall include the dates of service, posting, and publication of the notice.

(c) When the application is filed with the Board, the applicant shall serve, by first class mail, a copy on the Governor, the Public Service Commission (or equivalent agency), and the designated state agency of each state in which any part of the line of railroad sought to be abandoned or discontinued is situated. A copy of the application will be available for public inspection, on or after the date the abandonment application is filed with the Board, at each agency station or terminal on the line proposed to be abandoned or discontinued (if there is no agency station on the line, the application shall be deposited at any agency station through which business for the line is received or forwarded). A certificate of service shall be promptly filed with the Board.

(d) The applicant shall promptly furnish by first class mail a copy of the application to any interested person proposing to file a written comment or protest upon request. A certificate of service shall promptly be filed with the Board.

(e)(1) The Board shall reject any abandonment or discontinuance application which does not substantially conform to the regulations in this subpart C regarding notice, form, and content, or which applies to a line which has not properly been published on the carrier's system diagram map (or included in a narrative in the case of a Class III carrier), in conformance with the regulations of subpart B of this part.

(2) Upon the filing of an abandonment or discontinuance application, the Board will review the application and determine whether it conforms with all applicable regulations. If the application is substantially incomplete or its filing otherwise defective, the Board shall reject the application for stated reasons by order (which order will be administratively final) within 20 days from the date of filing of the application. If the Board does not reject the application, notice of the filing of the application shall be published in

the FEDERAL REGISTER by the Board, through the Director of the Office of Proceedings, within 20 days of the filing of the application.

(3) If the application is rejected, a revised application may be submitted, and the Board will determine whether the resubmitted application conforms with all prescribed regulations. A properly revised application submitted within 60 days of the order rejecting the incomplete or improper application need not be subjected to new notice and publication under §1152.20, unless the defect causing the rejection was in the notice and/or publication. A revised application submitted after such 60-day period must be newly published and noticed.

(4) The resubmission of an abandonment or discontinuance application shall be considered a de novo filing for the purposes of computation of the time period for filing an offer of financial assistance under 49 U.S.C. 10904, and for other time periods prescribed in the regulations contained in this part (49 CFR part 1152), provided, that a resubmitted application is deemed complete and proper.

(5) An applicant may seek waiver of specific regulations listed in subpart C of this part by filing a petition for waiver with the Board. A decision by the Director of the Office of Proceedings granting or denying a waiver petition will be issued within 30 days of the date the petition is filed. Appeals from the Director's decision will be decided by the entire Board. If waiver is not obtained prior to the filing of the application, the application may be subject to rejection under paragraphs (e) (1) and (2) of this section.

(f) As provided in §1152.29(e)(2), rail carriers authorized to abandon a line under 49 U.S.C. 10903 must file with the Board a notice that abandonment has been consummated.

[61 FR 67883, Dec. 24, 1996, as amended at 62 FR 34669, June 27, 1997; 64 FR 53268, Oct. 1, 1999]

**§1152.25 Participation in abandonment or discontinuance proceedings.**

(a) *Public participation.* (1) *Protests and comments.* Interested persons may become parties to an abandonment or