

Surface Transportation Board, DOT

§ 1155.24

the environmental review and any final recommended environmental mitigation in deciding what action to take on the application.

(f) *Verification.* The original application shall be executed and verified in the form set forth below by an officer of the applicant 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 Finance Docket No. ____ (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 ____, 20 ____.

My commission expires ____.

§ 1155.23 Additional requirements when filing after an unsatisfactory result from a State, local, or municipal authority affecting the siting of the facility.

(a) When an applicant has previously sought permission from the applicable state, local, or municipal authority and received an unsatisfactory result, such as inordinate delay, affecting the siting of the facility, the applicant may petition the Board to accept an application for a land-use-exemption permit. The applicant shall address in its petition why applicant believes it can make the showing required in 49 CFR 1155.23(b). The petition shall be filed simultaneously with the land-use-exemption permit application.

(b) Standard for review. The Board will not consider a land-use-exemption-permit application regarding laws, regulations, or other requirements upon which the applicant has received an unsatisfactory result from a state, local, or municipal authority, unless the Board finds that the laws, regulations, or other requirements affect the siting

of the facility, on their face or as applied, either

(1) Unreasonably burden the interstate transportation of solid waste by railroad, or

(2) Discriminate against the railroad transportation of solid waste and a solid waste rail transfer facility.

§ 1155.24 Filings and service of application.

(a) The applicant shall tender with its application an affidavit attesting to its compliance with the notice requirements of 49 CFR 1155.20. The affidavit shall include the dates of service, posting, and newspaper publication of the Notice of Intent.

(b) When the application is filed with the Board, the applicant shall serve, by first-class mail, a copy on the Governor of the state where the facility is located, and the state, local, and/or municipal agency/ies that would have permitting or review authority of the solid waste rail transfer facility if there were no federal preemption. A copy of the certificate of service shall be filed with the Board at the same time.

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

(d)(1) Upon the filing of a land-use-exemption-permit application, the Board will review the application and determine whether it conforms to 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.

(2) 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