

GUIDELINE NO. 1

OFFICE OF AIR, RAIL AND TRANSIT PROPERTY MANAGEMENT GUIDELINE
DISPOSITION OF EXCESS PROPERTY -- EXCEPT REAL PROPERTY

This Guideline is applicable to the disposition of excess State-owned_railroad property except real property.

1. Upon determination by the Program Manager, Office of Air, Rail and Transit that State-owned rail property, other than real property, is excess to the needs of the State, the Program Manager shall arrange for an appraisal of said property by a qualified appraiser.
2. For purposes of this Guideline, appraised value shall mean the value of the property in place less the cost of removal from State-owned real property.
3. The Program Manager, Office of Air, Rail and Transit shall submit a list of properties to be declared excess, together with appraisals of said property to the South Dakota State Railroad Board. The Railroad Board, subject to the approval of the Governor, shall declare the property subject to disposition to be excess to the needs of the State, and authorize the sale thereof.
4. Subsequent to the Board's declaration and the Governor's approval, that the property is excess to the needs of the State, if the property has no appraised value, subtracting the cost of advertising, the Program Manager, Office of Air, Rail and Transit may dispose of said property
5. The Program Manager, Office of Air, Rail and Transit may, subject to the approval of the State Railroad Board and the Governor, make sales of property to other state agencies, departments or political subdivisions. Such sales shall not require notice or advertisement for bid requirements, provided, however, that such sales shall not be made for less than the appraised value.
6. Property determined to have appraised value, after subtracting the cost of advertising, shall be sold only for cash either by offer at public auction or through sealed bids. The sealed bids or final offer shall be in writing. Before any sale is made, the Office of Air, Rail and Transit shall publish not less than one notice of the sale in three (3) of the daily newspapers of the State not less than twenty (20) days prior to the day on which the sale is to be made and the location where the auction is to be held or the place where sealed bids will be received. The right to reject any bid is reserved.

GUIDELINE NO. 1

7. The Program Manager, Office of Air, Rail and Transit, subject to the approval of the State Railroad Board and the Governor, may sell at private sale through negotiation without further advertising property appraised and offered for sale pursuant to this Guideline for which no sealed bid or offer at public auction was received which equaled the appraised value.
8. The costs of disposition of said property shall be paid from the Railroad Administration Fund (Company 3042), and the proceeds of any sales made pursuant to this Guideline shall be deposited by the Office of Air, Rail and Transit in the Railroad Administration Fund (Company 3042).

Adopted by Resolution No. 2014 – B13, this 16th day of July, 2014.

SOUTH DAKOTA STATE RAILROAD BOARD

By _____
Chairman



OFFICE OF RAILROADS PROPERTY MANAGEMENT GUIDELINE
LEASING OF STATE-OWNED INDUSTRIAL TRACKAGE

This Guideline is applicable to the leasing of State-owned industrial trackage.

*** Delete Guideline 2 completely and add into the mainline track lease and sublease. ***

RESOLUTION 2014 – B13

July 16, 2014

GUIDELINE NO. 3

OFFICE OF AIR, RAIL, AND TRANSIT PROPERTY MANAGEMENT GUIDELINE
USE OF STATE-OWNED RAILROAD PROPERTY FOR AGRICULTURAL PURPOSES

This Guideline is applicable to the use of State-owned railroad property for agricultural purposes.

Haying and grazing purposes:

1. Use of property between station grounds for agricultural purposes shall be by agricultural permit.
2. No agricultural permit for the grazing of livestock shall be granted on operational lines.
3. An agricultural permit will be granted to a permit applicant on first come first serve basis.
4. Agricultural permits shall be renewable annually at a rate of twenty-five dollars (\$25.00) per mile per side of the track.
5. Use of property within station grounds for agricultural purposes shall be by agricultural lease.

Farming purposes:

6. Annual rental for agricultural leases shall be determined on the basis of five (5) percent of the average per acre agricultural value in the county where the property lies. Minimum rental for agricultural leases shall be as follows:

Operating Rail lines

- | | |
|-------------------------|-----------------|
| Incorporated stations | - \$60 per year |
| Unincorporated stations | - \$30 per year |

Non-operating Rail lines

- | | |
|--------------|-----------------|
| All stations | - \$30 per year |
|--------------|-----------------|

7. This Guideline shall not apply to the use of State-owned railroad property for agricultural purposes for which a lease or permit has been issued prior to the adoption of this Guideline.
8. Any party aggrieved by an action of the Office of Air, Rail, and Transit may file a petition with the Program Manager, Office of Air, Rail, and Transit for a hearing before the South Dakota State Railroad Board.
9. Within 45 days of the receipt of the petition by the Office of Air, Rail, and Transit, a public hearing shall be held before the Board.

GUIDELINE NO. 3

- 10. Notice of the hearing shall be published in not less than three newspapers of general circulation in the State not less than 20 days prior to the scheduled date of hearing.
- 11. The hearing shall be conducted consistent with the provisions of SDCL 1-26 pertaining to contested cases.

Adopted by Resolution No. 2015-B26, this 16__ day of December, 2015.

SOUTH DAKOTA STATE RAILROAD BOARD

By _____
Chairman

Revised December 16, 2015

OFFICE OF AIR, RAIL, AND TRANSIT PROPERTY MANAGEMENT GUIDELINE
DISPOSITION OF EXCESS REAL PROPERTY

This Guideline is applicable to the disposition of excess (rail related) real property.

1. Upon determination by the Program Manager, Office of Air, rail, and Transit (“Program Manager”), that State-owned (rail related) real property is excess to the needs of the State, the Program Manager shall arrange for an appraisal of said property by a qualified appraiser.
2. The Program Manager shall submit a list of properties to be declared excess, together with appraisals of said property to the South Dakota State Railroad Board (“Board”). The Board, subject to the approval of the Governor, shall declare the property subject to disposition to be excess to the needs of the State, and authorize the sale thereof.
3. If the property is currently under lease, or entirely landlocked, the current lessee or the owner of the land surrounding the landlocked land shall be notified that the property is for sale and shall have sixty (60) days in which to arrange to purchase it at not less than the appraised value, provided, however, that the Program Manager may make adjustments to the area of the leased property to provide for access or usability of the property, and further, provided, that the Program Manager reserves the right to protect operating right-of-way by either excluding property from the sale to the Lessee or by subjecting the property to appropriate easement. If there is no lessee, the abutting landowner shall be notified that the property is for sale and shall have sixty (60) days in which to arrange to purchase it at not less than the appraised value. Such sales shall not require notice of advertisement for bid requirements.
4. If the current Lessee or abutting landowner does not arrange to purchase the property within the time allowed, the property shall be sold at public auction, or through sealed bids, as provided below.
5. Property shall be sold only for cash either by offer at public auction or through sealed bids. The sealed bids or final offer shall be in writing. The final offer on the bid which is accepted shall be filed within the Office of Air, rail, and Transit in Pierre SD. Before any sale is made, except sales to the current Lessee, or the abutting landowner, the Program Manager shall publish a notice of the sale in three of the daily newspapers of the State once a week for the two successive weeks just before the day on or after which the sale is to be made. The notice shall state the day on or after which the sale is to be made and the location where the auction will be held or the place where sealed bids will be received. The day stated shall be at least fifteen days after the first publication of notice. The right to reject any bid is reserved.

GUIDELINE NO. 4

6. Fifty (50) percent of the appraised price shall be paid at the time of the sale with the balance due within sixty (60) days of the sale.
7. The conveyance of the property shall be made by Quit Claim Deed in the name of the State of South Dakota, Department of Transportation (formerly Division of Railroads) and executed by the Secretary, Department of Transportation. No abstract will be furnished.
8. The Program Manager, subject to the approval of the Board and the Governor, may sell at private sale through negotiation without further advertising the property appraised and offered for sale pursuant to this Guideline, for which no sealed bid or offer at public auction was received which equaled the appraisal value.
9. No vacation, change, relocation, or sale of State-owned railway property shall diminish any existing right of use enjoyed by any public utility, municipally-owned utility or cooperative utility which provides electricity, gas, water or telephone service.
10. The costs of disposition of said property shall be paid from the Railroad Administration Fund (Company 3042), and the proceeds of any sales made pursuant to this Guideline shall be deposited in the Railroad Trust Fund (Company 3044).

Adopted by Resolution No. 2014 – B13, this 16th day of July, 2014.

SOUTH DAKOTA STATE RAILROAD BOARD

By _____
Chairman



GUIDELINE NO. 5

OFFICE OF AIR, RAIL, AND TRANSIT OFFICE OF AIR, RAIL, AND TRANSIT PROPERTY MANAGEMENT GUIDELINE LEASING OF STATE-OWNED RAILROAD PROPERTY FOR USES OTHER THAN AGRICULTURAL PURPOSES

This Guideline is applicable to the leasing of State-owned railroad property for uses other than agricultural purposes.

1. Application for lease shall be made on a form provided by the Department of Transportation, Office of Air, Rail, and Transit.
2. If the property in question is currently leased, the current lessee shall be given first priority in leasing the property, provided an agreement can be reached on a rental amount.
3. Within forty-five (45) days of the receipt of an application to lease property, a lease shall be offered to the applicant or the application denied.
4. Leases entered into under these guidelines shall be for a five year period with a ninety (90) day termination provision, provided, however, that leases entered into with other State agencies or with political subdivisions of the State of South Dakota may be for an indefinite term with a ninety (90) day termination provision when deemed appropriate by the Program Manager, Office of Air, Rail, and Transit.
5. The rental rate for leases entered into under these guidelines shall be based on a formula developed by the Department of Transportation, provided, however, that the minimum rental rate shall be Two Hundred (\$200) dollars per annum, provided, further, that a rental rate of Two Hundred (\$200) dollars for the term of the lease may be charged for any lease entered into with another State agency or with a political subdivision of the State of South Dakota when deemed appropriate by the Program Manager, Office of Air, Rail, and Transit.
6. These guidelines shall not apply to any lease entered into prior to the adoption of these guidelines.
7. Expenses relating to the leasing or granting of licenses or permits of State-owned railroad property shall be paid from the Railroad Administration Fund (Company 3042). All proceeds from the rental of said property shall be deposited in the Railroad Administration Fund (Company 3042).
8. Within thirty (30) days of receipt of notice of any action by the Office of Air, Rail, and Transit, any party which is aggrieved by an action of the Office of Air, Rail, and Transit may file a petition with the Office of Air, Rail, and Transit for a hearing before the South Dakota State Railroad Board.

GUIDELINE NO. 5

9. Within forty-five (45) days of the receipt of the petition by the Program Manager, Office of Air, Rail, and Transit, a public hearing shall be held before the Board.
10. Notice of the hearing shall be published in not less than three newspapers of general circulation in the State not less than twenty (20) days prior to the scheduled date of hearing.
11. The hearing shall be conducted consistent with the provisions of SDCL 1-26 pertaining to contested cases.

Adopted by Resolution No. 2014 – B13 , this 16th day of July , 2014 .

SOUTH DAKOTA STATE RAILROAD BOARD

By _____
Chairman



GUIDELINE NO. 6

OFFICE OF AIR, RAIL, AND TRANSIT PROPERTY MANAGEMENT GUIDELINE GRANTING OF LICENSES OR PERMITS - EXCEPT FOR AGRICULTURAL PURPOSES

This Guideline is applicable to the granting of licenses or permits on State-owned property.

1. An application for the use of the railroad right-of-way for **underground and overhead crossing of cables or pipes** will be submitted on forms provided by the Department of Transportation. Submittals will be sent to Department of Transportation by Certified Mail Return Receipt will and must include a complete application, insurance certificate and correct fee from below. Within thirty (30) days of receipt of submittals, The Department of Transportation will review and approve or deny application.
 - a. Underground or overhead crossing of cables or pipes, not in public right of way, will be a one-time fee of \$750.00.
 - b. Underground or overhead crossings of cables or pipes, in public right of way, will have no fee.
 - c. Longitudinal encroachments fee will be \$.50 per linear foot per annually or a minimum of \$225.00 annually.
2. A request for the use of the railroad right-of-way for **private road crossings** will be submitted on an application the Department of Transportation provides. Submittal will be sent to Department of Transportation along with a \$175.00 application fee. Department of Transportation will review and approve or deny within 30 days of receipt of application. Approval will be followed by an agreement and invoice for \$75.00 annually fee.
3. A request for the use of railroad right of way for **Temporary Right of Entry** will be submitted on an application provided by the Department of Transportation. The submittal will be sent to Department of Transportation along with payment of \$175.00 one-time fee. Upon approval of application on access to State Owned Railroad Property will be granted for a period of sixty (60) days. No structures or permanent facilities may be placed on State Owned Railroad property without a lease agreement. If the Temporary right of Entry is to last in excess of sixty (60) days, a lease agreement will be entered into.

If in the opinion of the Program Manager, Office of Air, Rail and Transit, it is in the best interest of the state, a permit may be granted at no cost.

If in the opinion of the Program Manager, Office of Air, Rail, and Transit, it is in the best interest of the State, a license or permit listed above may be granted to a political subdivision of the State for a one-time fee of Five Hundred Dollars \$500 (includes application fee).

Utility company shall not be charged an application fee or rental for service lines which are solely for use by the current lessee.

Within 30 days of receipt of action of the Program Manager, Office of Air, Rail, and Transit, any party which is aggrieved by an action of the Office of Air, Rail, and Transit may file a petition with the Program Manager, Office of Air, Rail, and Transit for a hearing before the South Dakota State Railroad Board.

Within forty-five (45) days of the receipt of the petition by the Program Manager, Office of Air, Rail, and Transit, a public hearing shall be held before the Board.

Notice of the hearing shall be published in not less than three newspapers of general circulation in the State not less than 20 days prior to the scheduled date of hearing.

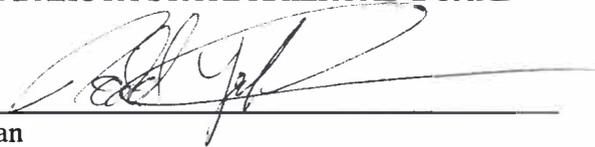
The hearing shall be conducted consistent with the provisions of SDCL 1-26 pertaining to contested cases.

Expenses relating to the leasing or granting of leases, licenses, or permits of State-owned railroad property shall be paid from the Railroad Administration Fund (Company 3042). All proceeds from the rental shall be deposited in the Railroad Administration Fund (Company 3042).

Adopted by Resolution No. 2014 – B13, this 16th day of July, 2014.

SOUTH DAKOTA STATE RAILROAD BOARD

By _____
Chairman



GUIDELINE NO. 7

OFFICE OF RAILROADS PROPERTY MANAGEMENT GUIDELINE
DISPOSITION OF EXCESS CORE SYSTEM RELATED REAL PROPERTY

This Guideline is applicable only to the disposition of excess real property related to the State-owned rail system known as the Core System.

** Delete Guideline 7 completely **

RESOLUTION 2014 – B13

July 16, 2014