



ADMINISTRATIVE RULES OF MONTANA



36.25.135 EASEMENTS

- (1) The state reserves to itself the right to grant easements for public purposes on state lands, the surface of which is leased or licensed. The board may grant easements upon state lands without the prior consent of a lessee or licensee. However, the board will require the grantee to compensate the lessee or licensee for damages to improvements, crops or the leasehold interest and file proof of that fact with the department prior to the granting of such easement. When the grantee and lessee or licensee cannot agree on just settlement for damages, the arbitration procedure set forth in ARM 36.25.125 shall be followed to arrive at a just settlement. If an easement limits the use by a lessee or licensee the lease or license shall be adjusted to reflect the loss of use.
- (2) Any person desiring an easement for public purposes shall apply to the department on a form prescribed by the department. The applicant shall pay full market value for the interest disposed of. The easement shall terminate when the land ceases to be used for its specified public purpose unless the easement is authorized by the board for a specific term. The department shall terminate the easement by notifying the grantee at his last known address that the public purpose has ceased or the specified term has expired. If the easement ceases to be used for the specified use, the grantee shall notify the department of the termination of the easement. The applicant shall be required to comply with the Montana Antiquities Act and all rules promulgated thereto.
- (3) An easement issued after January 16, 1987, may not be transferred or assigned without being approved and recorded on the prescribed forms issued by the department.
- (4) Within 5 years of the granting of an easement by the board, the grantee must put the easement to the use which is allowed in the right-of-way deed. Failure to put the easement to such use shall be sufficient cause for forfeiture of the easement upon written notice by the department.

Authorizing statute(s): 77-1-209, MCA

Implementing statute(s): 77-2-101, MCA

History: NEW, 1987 MAR p. 17, Eff. 1/16/87; TRANS, 1996 MAR p. 2384.