

(Pub. L. 98-306, §14, May 31, 1984, 98 Stat. 226; Pub. L. 99-498, title XV, §1514(c), Oct. 17, 1986, 100 Stat. 1608.)

### Editorial Notes

#### AMENDMENTS

1986—Subsecs. (a)(1), (b)(1). Pub. L. 99-498 substituted “Institute of American Indian and Alaska Native Culture and Arts Development” for “Institute of American Indian Arts” wherever appearing.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-498, title XV, §1514(f), Oct. 17, 1986, 100 Stat. 1608, provided that amendment made by Pub. L. 99-498 is effective Oct. 1, 1986.

## CHAPTER 8—RIGHTS-OF-WAY THROUGH INDIAN LANDS

Sec.	
311.	Opening highways.
312.	Rights-of-way for railway, telegraph, and telephone lines; town-site stations.
313.	Width of rights-of-way.
314.	Survey; maps; compensation.
315.	Time for completion of road; forfeiture.
316.	Rights of several roads through canyons.
317.	Regulations.
318.	Amendment or repeal of sections.
318a.	Roads on Indian reservations; appropriation.
318b.	Repealed.
319.	Rights-of-way for telephone and telegraph lines.
320.	Acquisition of lands for reservoirs or materials.
321.	Rights-of-way for pipe lines.
322.	Applicability of certain provisions to Pueblo Indians.
322a.	Renewal of rights-of-way without consent of Pueblo Tribes; authority of Secretary; compensation, etc.
323.	Rights-of-way for all purposes across any Indian lands.
324.	Consent of certain tribes; consent of individual Indians.
325.	Payment and disposition of compensation.
326.	Laws unaffected.
327.	Application for grant by department or agency.
328.	Rules and regulations.

### § 311. Opening highways

The Secretary of the Interior is authorized to grant permission, upon compliance with such requirements as he may deem necessary, to the proper State or local authorities for the opening and establishment of public highways, in accordance with the laws of the State or Territory in which the lands are situated, through any Indian reservation or through any lands which have been allotted in severalty to any individual Indian under any laws or treaties but which have not been conveyed to the allottee with full power of alienation.

(Mar. 3, 1901, ch. 832, §4, 31 Stat. 1084.)

### § 312. Rights-of-way for railway, telegraph, and telephone lines; town-site stations

A right of way for a railway, telegraph, and telephone line through any Indian reservation in any State or Territory, except Oklahoma, or through any lands reserved for an Indian agency

or for other purposes in connection with the Indian service, or through any lands which have been allotted in severalty to any individual Indian under any law or treaty, but which have not been conveyed to the allottee with full power of alienation, is granted to any railroad company organized under the laws of the United States, or of any State or Territory, which shall comply with the provisions of sections 312 to 318 of this title and such rules and regulations as may be prescribed thereunder: *Provided*, That no right of way shall be granted under said sections until the Secretary of the Interior is satisfied that the company applying has made said application in good faith and with intent and ability to construct said road, and in case objection to the granting of such right of way shall be made, said Secretary shall afford the parties so objecting a full opportunity to be heard: *Provided further*, That where a railroad has heretofore been constructed, or is in actual course of construction, no parallel right of way within ten miles on either side shall be granted by the Secretary of the Interior unless, in his opinion, public interest will be promoted thereby: *Provided, also*, That as a condition precedent to each and every grant of a right of way under authority of said sections, each and every railway company applying for such grant shall stipulate that it will construct and permanently maintain suitable passenger and freight stations for the convenience of each and every town site established by the Government along said right of way.

(Mar. 2, 1899, ch. 374, §1, 30 Stat. 990; Feb. 28, 1902, ch. 134, §23, 32 Stat. 50; June 25, 1910, ch. 431, §16, 36 Stat. 859.)

### § 313. Width of rights-of-way

Such right of way shall not exceed fifty feet in width on each side of the center line of the road, except where there are heavy cuts and fills, when it shall not exceed one hundred feet in width on each side of the road, and may include grounds adjacent thereto for station buildings, depots, machine shops, sidetracks, turn-outs, and water stations, not to exceed two hundred feet in width by a length of three thousand feet, and not more than one station to be located within any one continuous length of ten miles of road.

(Mar. 2, 1899, ch. 374, §2, 30 Stat. 990; June 21, 1906, ch. 3504, 34 Stat. 330.)

### § 314. Survey; maps; compensation

The line of route of said road may be surveyed and located through and across any of said lands at any time, upon permission therefor being obtained from the Secretary of the Interior; but before the grant of such right of way shall become effective a map of the survey of the line or route of said road must be filed with and approved by the Secretary of the Interior, and the company must make payment to the Secretary of the Interior for the benefit of the tribe or nation, of full compensation for such right of way, including all damage to improvements and adjacent lands, which compensation shall be determined and paid under the direction of the Secretary of the Interior, in such manner as he may

prescribe. Before any such railroad shall be constructed through any land, claim, or improvement, held by individual occupants or allottees in pursuance of any treaties or laws of the United States, compensation shall be made to such occupant or allottee for all property to be taken, or damage done, by reason of the construction of such railroad. In case of failure to make amicable settlement with any such occupant or allottee, such compensation shall be determined by the appraisal of three disinterested referees, to be appointed by the Secretary of the Interior, who, before entering upon the duties of their appointment, shall take and subscribe before competent authority an oath that they will faithfully and impartially discharge the duties of their appointment, which oath, duly certified, shall be returned with their award to the Secretary of the Interior. If the referees cannot agree, then any two of them are authorized to make the award. Either party being dissatisfied with the finding of the referees shall have the right within sixty days after the making of the award and notice of the same, to appeal, if said land is situated in any State or Territory other than Oklahoma, to the United States district court for such State or Territory, where the case shall be tried de novo and the judgment for damages rendered by the court shall be final and conclusive.

When proceedings are commenced in court as aforesaid, the railroad company shall deposit the amount of the award made by the referees with the court to abide the judgment thereof, and then have the right to enter upon the property sought to be condemned and proceed with the construction of the railway. Each of the referees shall receive for his compensation the sum of \$4 per day while engaged in the hearing of any case submitted to them under sections 312 to 318 of this title. Witnesses shall receive the fees usually allowed by courts within the district where such land is located. Costs, including compensation of the referees, shall be made part of the award or judgment, and be paid by such railroad company.

(Mar. 2, 1899, ch. 374, § 3, 30 Stat. 991; Feb. 28, 1902, ch. 134, § 23, 32 Stat. 50.)

### § 315. Time for completion of road; forfeiture

If any such company shall fail to construct and put in operation one-tenth of its entire line in one year, or to complete its road within three years after the approval of its map of location by the Secretary of the Interior, the right of way granted shall be deemed forfeited and abandoned ipso facto as to that portion of the road not then constructed and in operation: *Provided*, That the Secretary may, when he deems proper, extend, for a period not exceeding two years, the time for the completion of any road for which right of way has been granted and a part of which shall have been built.

(Mar. 2, 1899, ch. 374, § 4, 30 Stat. 991.)

### § 316. Rights of several roads through canyons

The provisions of section 935<sup>1</sup> of title 43 relating to the rights of several railroads through

any canyon, pass, or defile are extended and made applicable to rights of way granted under sections 312 to 318 of this title and to railroad companies obtaining such rights of way.

(Mar. 2, 1899, ch. 374, § 6, 30 Stat. 992.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 935 of title 43, referred to in text, was repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, under, and through the public lands and lands in the National Forest System.

### § 317. Regulations

The Secretary of the Interior shall make all needful rules and regulations, not inconsistent with sections 312 to 318 of this title, for the proper execution and carrying into effect of all the provisions of said sections.

(Mar. 2, 1899, ch. 374, § 7, 30 Stat. 992.)

### § 318. Amendment or repeal of sections

Congress reserves the right at any time to alter, amend, or repeal sections 312 to 318 of this title or any portion thereof.

(Mar. 2, 1899, ch. 374, § 8, 30 Stat. 992.)

### § 318a. Roads on Indian reservations; appropriation

Appropriations are hereby authorized out of any money in the Treasury not otherwise appropriated for material, equipment, supervision and engineering, and the employment of Indian labor in the survey, improvement, construction, and maintenance of Indian reservation roads not eligible to Government aid under the Federal Highway Act and for which no other appropriation is available, under such rules and regulations as may be prescribed by the Secretary<sup>1</sup> of the Interior.

(May 26, 1928, ch. 756, 45 Stat. 750.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Federal Highway Act, referred to in text, is act Nov. 9, 1921, ch. 119, 42 Stat. 212, which enacted sections 1, 2, 3, 3a, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 to 20, 21, 22, 23, 24, and 25 of former Title 23, Highways, and amended sections 5 and 12a of former Title 23 and section 3 of Title 50, War and National Defense. Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 919, repealed the Federal Highway Act, with the exception of the amendment to section 3 of Title 50, as part of the general revision and reenactment of Title 23, Highways.

#### Statutory Notes and Related Subsidiaries

##### APPROPRIATIONS FOR FISCAL YEARS 1950 AND 1951

Act June 29, 1948, ch. 732, § 4(c), 62 Stat. 1105, authorized the appropriation of \$6,000,000 for fiscal years 1950 and 1951, respectively, for the carrying out of the provisions of this section.

### § 318b. Repealed. Pub. L. 85-767, § 2[19], [23], Aug. 27, 1958, 72 Stat. 919

Section, acts June 16, 1936, ch. 582, § 6, 49 Stat. 1521; Sept. 5, 1940, ch. 715, § 10, 54 Stat. 870; June 30, 1949, ch.

<sup>1</sup> See References in Text note below.

<sup>1</sup> So in original. Probably should be "Secretary".