

25 USC Ch. 8: RIGHTS-OF-WAY THROUGH INDIAN LANDS

From Title 25—INDIANS

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	Repealed.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 ¹ 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.

¹ *See References in Text note below.*

§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 ¹ 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.

¹ *So in original. Probably should be "Secretary".*

§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. 288, title I, §103\(a\)](#), 63 Stat. 380; 1949 Reorg. Plan No. 7, §1, eff. Aug. 19, 1949, 14 F.R. 5228, 63 Stat. 1070, related to location and design of roads by the Bureau of Public Roads.

§319. Rights-of-way for telephone and telegraph lines

The Secretary of the Interior is authorized and empowered to grant a right of way, in the nature of an easement, for the construction, operation, and maintenance of telephone and telegraph lines and offices for general telephone and

telegraph business through any Indian reservation, through any lands held by an Indian tribe or nation in the former Indian Territory, through any lands reserved for an Indian agency or Indian school, or for other purpose 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, upon the terms and conditions herein expressed. No such lines shall be constructed across Indian lands, as above mentioned, until authority therefor has first been obtained from the Secretary of the Interior, and the maps of definite location of the lines shall be subject to his approval. The compensation to be paid the tribes in their tribal capacity and the individual allottees for such right of way through their lands shall be determined in such manner as the Secretary of the Interior may direct, and shall be subject to his final approval; and where such lines are not subject to State or Territorial taxation the company or owner of the line shall pay to the Secretary of the Interior, for the use and benefit of the Indians, such annual tax as he may designate, not exceeding \$5 for each ten miles of line so constructed and maintained; and all such lines shall be constructed and maintained under such rules and regulations as said Secretary may prescribe. But nothing herein contained shall be so construed as to exempt the owners of such lines from the payment of any tax that may be lawfully assessed against them by either State, Territorial, or municipal authority; and Congress hereby expressly reserves the right to regulate the tolls or charges for the transmission of messages over any lines constructed under the provisions of this section: *Provided*, That incorporated cities and towns into or through which such telephone or telegraphic lines may be constructed shall have the power to regulate the manner of construction therein, and nothing herein contained shall be so construed as to deny the right of municipal taxation in such towns and cities.

(Mar. 3, 1901, ch. 832, §3, 31 Stat. 1083.)

EDITORIAL NOTES

CODIFICATION

The "former Indian Territory", referred to in text, was in the original "Indian Territory", and has been designated as former Indian Territory by virtue of the admission of such former Territory and the Territory of Oklahoma to the Union as the State of Oklahoma, pursuant to act [June 16, 1906, ch. 3335](#), 34 Stat. 267.

Section is comprised of the first par. of section 3 of act Mar. 3, 1901. The second par. of such section 3 is classified to section 357 of this title.

§320. Acquisition of lands for reservoirs or materials

When, in the judgment of the Secretary of the Interior, it is necessary for any railway company owning or operating a line of railway in any Indian reservation to acquire lands in such Indian reservation for reservoirs, material, or ballast pits for the construction, repair, and maintenance of its railway, or for the purpose of planting and growing thereon trees to protect its line of railway, the said Secretary is authorized to grant such lands to any such railway company under such terms and conditions and such rules and regulations as may be prescribed by the said Secretary.

When any railway company desiring to secure the benefits of this provision shall file with the Secretary of the Interior an application describing the lands which it desires to purchase, upon the payment of the price agreed upon the said Secretary shall cause such lands to be conveyed to the railway company applying therefor upon such terms and conditions as he may deem proper: *Provided*, That no lands shall be acquired under the terms of this provision in greater quantities than forty acres for any one reservoir, and one hundred and sixty acres for any material or ballast pit, to the extent of not more than one reservoir and one material or gravel pit in any one section of ten miles of any such railway in any Indian reservation: *And provided further*, That the lands acquired for tree planting shall be taken only at such places along the line of the railway company applying therefor as in the judgment of the said Secretary may be necessary, and shall be taken in strips adjoining and parallel with the right of way of the railway company taking the same, and shall not exceed one hundred and fifty feet in width.

All moneys paid for such lands shall be deposited in the Treasury of the United States to the credit of the tribe or tribes, and the moneys received by said Secretary as damages sustained by individual members of the Indian tribe, which damages shall be ascertained by the Secretary of the Interior and paid by the railway company taking such lands, shall be paid by said Secretary to the Indian or Indians sustaining such damages. The provisions of this section are extended and made applicable to 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; the damages and compensation to be paid to any Indian allottee shall be ascertained and fixed in such manner as the Secretary of the Interior may direct and shall be paid by the railway company to said Secretary; the damages and compensation paid to the Secretary of the Interior by the railway company taking any such land shall be paid by said Secretary to the allottee sustaining such damages.

(Mar. 3, 1909, ch. 263, 35 Stat. 781, 782; May 6, 1910, ch. 204, 36 Stat. 349.)

§321. Rights-of-way for pipe lines

The Secretary of the Interior is authorized and empowered to grant a right-of-way in the nature of an easement for the construction, operation, and maintenance of pipe lines for the conveyance of oil and gas through any Indian reservation, through any lands held by an Indian tribe or nation in the former Indian Territory, through any lands reserved for an Indian agency or Indian school, or for other purpose 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 upon the terms and conditions herein expressed. Before title to rights of way applied for hereunder shall vest, maps of definite location shall be filed with and approved by the Secretary of the Interior: *Provided*, That before such approval the Secretary of the Interior may, under such rules and regulations as he may prescribe, grant temporary permits revocable in his discretion for the construction of such lines: *Provided*, That the construction of lateral lines from the main pipe line establishing connection with oil and gas wells on the individual allotments of citizens may be constructed without securing authority from the Secretary of the Interior and without filing maps of definite location, when the consent of the allottee upon whose lands oil or gas wells may be located and of all other allottees through whose lands said lateral pipe lines may pass has been obtained by the pipe-line company: *Provided further*, That in case it is desired to run a pipe line under the line of any railroad, and satisfactory arrangements cannot be made with the railroad company, then the question shall be referred to the Secretary of the Interior, who shall prescribe the terms and conditions under which the pipe-line company shall be permitted to lay its lines under said railroad. The compensation to be paid the tribes in their tribal capacity and the individual allottees for such right of way through their lands shall be determined in such manner as the Secretary of the Interior may direct, and shall be subject to his final approval. And where such lines are not subject to State or Territorial taxation the company or owner of the line shall pay to the Secretary of the Interior, for the use and benefit of the Indians, such annual tax as he may designate, not exceeding \$5 for each ten miles of line so constructed and maintained under such rules and regulations as said Secretary may prescribe. But nothing herein contained shall be so construed as to exempt the owners of such lines from the payment of any tax that may be lawfully assessed against them by either State, Territorial, or municipal authority. And incorporated cities and towns into and through which such pipe lines may be constructed shall have the power to regulate the manner of construction therein, and nothing herein contained shall be so construed as to deny the right of municipal taxation in such towns and cities, and nothing herein shall authorize the use of such right of way except for pipe line, and then only so far as may be necessary for its construction, maintenance, and care: *Provided*, That the rights herein granted shall not extend beyond a period of twenty years: *Provided further*, That the Secretary of the Interior, at the expiration of said twenty years, may extend the right to maintain any pipe line constructed under this section for another period not to exceed twenty years from the expiration of the first right, upon such terms and conditions as he may deem proper. The right to alter, amend, or repeal this section is expressly reserved.

(Mar. 11, 1904, ch. 505, §§1, 2, 33 Stat. 65; Mar. 2, 1917, ch. 146, §1, 39 Stat. 973.)

EDITORIAL NOTES

CODIFICATION

The "former Indian Territory", referred to in text, was in the original "Indian Territory", and has been designated as former Indian Territory by virtue of the admission of such former Territory and the Territory of Oklahoma to the Union as the State of Oklahoma, pursuant to act [June 16, 1906, ch. 3335](#), 34 Stat. 267.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior relating to compliance with rights-of-way across Indian lands, issued under section 321 et seq. of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural

gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, set out in the Appendix to Title 5, Government Organization and Employees, effective July 1, 1979, pursuant to Ex. Ord. No. 12142, §1–101, June 21, 1979, 44 F.R. 36927, set out as a note under section 719e of Title 15, Commerce and Trade.

§322. Applicability of certain provisions to Pueblo Indians

The provisions of the following statutes:

- Sections 311, 319, and 357 of this title;
- Sections 312 to 318 of this title;
- Section 321 of this title; and
- Sections 323 to 328 of this title,

are extended over and made applicable to the Pueblo Indians of New Mexico and their lands, whether owned by the Pueblo Indians or held in trust or set aside for their use and occupancy by Executive order or otherwise, under such rules, regulations, and conditions as the Secretary of the Interior may prescribe.

(Apr. 21, 1928, ch. 400, §1, 45 Stat. 442; Pub. L. 94–416, §3, Sept. 17, 1976, 90 Stat. 1275.)

EDITORIAL NOTES

AMENDMENTS

1976—Pub. L. 94–416 inserted reference to sections 323 to 328 and 357 of this title with respect to the enumeration of statutes, struck out reference to section 935 of title 43 with respect to the enumeration of statutes, and inserted "whether owned by the Pueblo Indians or held in trust or set aside for their use and occupancy by Executive order or otherwise," after "New Mexico and their lands".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior relating to compliance with rights-of-way across Indian lands, issued under section 321 et seq. of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, set out in the Appendix to Title 5, Government Organization and Employees, effective July 1, 1979, pursuant to Ex. Ord. No. 12142, §1–101, June 21, 1979, 44 F.R. 36927, set out as a note under section 719e of Title 15, Commerce and Trade.

§322a. Renewal of rights-of-way without consent of Pueblo Tribes; authority of Secretary; compensation, etc.

Notwithstanding such provisions, the Secretary of the Interior may, without the consent of the affected Pueblo Tribes, grant one renewal for a period not to exceed ten years of any right-of-way acquired through litigation initiated under the Act of May 10, 1926 (44 Stat. 498), or by compromise and settlement in such litigation, prior to January 1, 1975. The Secretary shall require, as compensation for the Pueblo involved, the fair market value, as determined by the

Secretary, of the grant of such renewal. The Secretary may grant such right-of-way renewal under this section only in the event the owner of such existing right-of-way and the Pueblo Tribe involved cannot reach agreement on renewal within ninety days after such renewal is requested. Nothing in this section shall be deemed to validate or authorize the renewal of a right-of-way which is otherwise invalid by reason of the invalidity of the Act of May 10, 1926, on the date said right-of-way was originally obtained.

(Apr. 21, 1928, ch. 400, §2, as added Pub. L. 94-416, §3, Sept. 17, 1976, 90 Stat. 1275.)

EDITORIAL NOTES

REFERENCES IN TEXT

Notwithstanding such provisions, referred to in text, means the provisions referred to in section 322 of this title.

Act of May 10, 1926, referred to in text, is act [May 10, 1926, ch. 282](#), 44 Stat. 498, which was not classified to the Code.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior relating to compliance with rights-of-way across Indian lands, issued under section 321 et seq. of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, set out in the Appendix to Title 5, Government Organization and Employees, effective July 1, 1979, pursuant to Ex. Ord. No. 12142, §1-101, June 21, 1979, 44 F.R. 36927, set out as a note under section 719e of Title 15, Commerce and Trade.

§323. Rights-of-way for all purposes across any Indian lands

The Secretary of the Interior be, and he is empowered to grant rights-of-way for all purposes, subject to such conditions as he may prescribe, over and across any lands now or hereafter held in trust by the United States for individual Indians or Indian tribes, communities, bands, or nations, or any lands now or hereafter owned, subject to restrictions against alienation, by individual Indians or Indian tribes, communities, bands, or nations, including the lands belonging to the Pueblo Indians in New Mexico, and any other lands heretofore or hereafter acquired or set aside for the use and benefit of the Indians.

(Feb. 5, 1948, ch. 45, §1, 62 Stat. 17.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Act [Feb. 5, 1948, ch. 45, §7](#), 62 Stat. 18, provided that sections 323 to 328 should not become operative until 30 days after Feb. 5, 1948.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior relating to compliance with rights-of-way across Indian lands, issued under section 321 et seq. of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, set out in the Appendix to Title 5, Government Organization and Employees, effective July 1, 1979, pursuant to Ex. Ord. No. 12142, §1-101, June 21, 1979, 44 F.R. 36927, set out as a note under section 719e of Title 15, Commerce and Trade.

§324. Consent of certain tribes; consent of individual Indians

No grant of a right-of-way over and across any lands belonging to a tribe organized under the Act of June 18, 1934 (48 Stat. 984), as amended [25 U.S.C. 5101 et seq.]; the Act of May 1, 1936 (49 Stat. 1250); or the Act of June 26, 1936 (49 Stat. 1967), shall be made without the consent of the proper tribal officials. Rights-of-way over and across lands of individual Indians may be granted without the consent of the individual Indian owners if (1) the land is owned by more than one person, and the owners or owner of a majority of the interests therein consent to the grant; (2) the whereabouts of the owner of the land or an interest therein are unknown, and the owners or owner of any interests therein whose whereabouts are known, or a majority thereof, consent to the grant; (3) the heirs or devisees of a deceased owner of the land or an interest therein have not been determined, and the Secretary of the Interior finds that the grant will cause no substantial injury to the land or any owner thereof; or (4) the owners of interests in the land are so numerous that the Secretary finds it would be impracticable to obtain their consent, and also finds that the grant will cause no substantial injury to the land or any owner thereof.

(Feb. 5, 1948, ch. 45, §2, 62 Stat. 18.)

EDITORIAL NOTES

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, is act [June 18, 1934, ch. 576](#), 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to chapter 45 (§5101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

Act of May 1, 1936, referred to in text, is act [May 1, 1936, ch. 254](#), 49 Stat. 1250, which was classified to sections 473a and 496 of this title, prior to repeal of section 496 by Pub. L. 94-579, [title VII, §704\(a\), Oct. 21, 1976](#), 90 Stat. 2792, and editorial reclassification of section 473a as section 5119 of this title. For complete classification of this Act to the Code, see Tables.

Act of June 26, 1936, referred to in text, is act [June 26, 1936, ch. 831](#), 49 Stat. 1967, popularly known as the Oklahoma Welfare Act, which was classified generally to subchapter VIII (§501 et seq.) of chapter 14 of this title prior to editorial reclassification as chapter 45A (§5201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5201 of this title and Tables. Provisions of the Act relating to the revolving fund appear in section 5206 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15. Functions and

authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior relating to compliance with rights-of-way across Indian lands, issued under section 321 et seq. of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, set out in the Appendix to Title 5, Government Organization and Employees, effective July 1, 1979, pursuant to Ex. Ord. No. 12142, §1–101, June 21, 1979, 44 F.R. 36927, set out as a note under section 719e of Title 15, Commerce and Trade.

§325. Payment and disposition of compensation

No grant of a right-of-way shall be made without the payment of such compensation as the Secretary of the Interior shall determine to be just. The compensation received on behalf of the Indian owners shall be disposed of under rules and regulations to be prescribed by the Secretary of the Interior.

(Feb. 5, 1948, ch. 45, §3, 62 Stat. 18.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior relating to compliance with rights-of-way across Indian lands, issued under section 321 et seq. of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, set out in the Appendix to Title 5, Government Organization and Employees, effective July 1, 1979, pursuant to Ex. Ord. No. 12142, §1–101, June 21, 1979, 44 F.R. 36927, set out as a note under section 719e of Title 15, Commerce and Trade.

§326. Laws unaffected

Sections 323 to 328 of this title shall not in any manner amend or repeal the provisions of the Federal Water Power Act of June 10, 1920 (41 Stat. 1063), as amended by the Act of August 26, 1935 (49 Stat. 838) [16 U.S.C. 791a et seq.], nor shall any existing statutory authority empowering the Secretary of the Interior to grant rights-of-way over Indian lands be repealed.

(Feb. 5, 1948, ch. 45, §4, 62 Stat. 18.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Water Power Act, referred to in text, is act [June 10, 1920, ch. 285](#), 41 Stat. 1063, as amended, now known as the Federal Power Act, which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

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§327. Application for grant by department or agency

Rights-of-way for the use of the United States may be granted under sections 323 to 328 of this title upon application by the department or agency having jurisdiction over the activity for which the right-of-way is to be used.

([Feb. 5, 1948, ch. 45, §5](#), 62 Stat. 18.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

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§328. Rules and regulations

The Secretary of the Interior is authorized to prescribe any necessary regulations for the purpose of administering the provisions of sections 323 to 328 of this title.

(Feb. 5, 1948, ch. 45, §6, 62 Stat. 18.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

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