

## **SUMMARY OF R.S. 2477 RIGHTS-OF-WAY RECOGNITION ACT**

### **A. The Act acknowledges and recognizes a valid right-of-way for each highway across public land not reserved for public uses,**

1. That appears as a public road in an official federal, state, or local governmental map published before October 21, 1976, or
2. That appears as a public road in an official federal state or local governmental map published between October 21, 1976 and October 21, 1986 provided it also appears in a government aerial photograph taken on or before October 21, 1976.

### **B. The Act also specifies that**

1. An R.S. 2477 right-of-way is valid for all routes across unreserved public land, where a right of public travel was timely established under state law.
2. R.S. 2477 rights-of-way may be established without federal agency knowledge, involvement, action or approval.
3. R.S. 2477 applied retroactively to validate rights-of-way established prior to the 1866 enactment of the statute.
4. R.S. 2477 does not prevent a road initially constructed by the federal government from becoming an R.S. 2477 right-of-way based on subsequent events.
5. R.S. 2477 does not require that roads lead to a definite destination or terminus in order to qualify as an R.S. 2477 highway.
6. The R.S. 2477 term "public land, not reserved for public uses," includes land subject to coal or other subsurface mineral or energy withdrawals.
7. No federal agency may enact administrative rules and regulations pertaining to recognition, management, validity, or scope of an R.S. 2477 right-of-way.
8. No federal agency may adjudicate cases or controversies regarding the validity or scope of R.S. 2477 rights-of-way. The federal agency with primary responsibility to manage public land over which a given highway runs may make non-binding determinations concerning the validity and scope of any R.S. 2477 right-of-way, if done for internal purposes with no intent to become a binding, final agency action.
9. State and local governments need not consult with or obtain permission from any federal agency prior to performing routine maintenance and repair on R.S. 2477 highways, but must consult with the appropriate federal agency before performing road improvement projects. Any disagreements over proposed improvement projects that remain after due consultation shall be resolved by the courts.