

## **16 USC 800: Issuance of preliminary permits or licenses**

Text contains those laws in effect on April 22, 2024

### **From Title 16-CONSERVATION**

CHAPTER 12-FEDERAL REGULATION AND DEVELOPMENT OF POWER

SUBCHAPTER I-REGULATION OF THE DEVELOPMENT OF WATER POWER AND RESOURCES

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## **§800. Issuance of preliminary permits or licenses**

### **(a) Preference**

In issuing preliminary permits hereunder or original licenses where no preliminary permit has been issued, the Commission shall give preference to applications therefor by States, Indian tribes, and municipalities, provided the plans for the same are deemed by the Commission equally well adapted, or shall within a reasonable time to be fixed by the Commission be made equally well adapted, to conserve and utilize in the public interest the water resources of the region; and as between other applicants, the Commission may give preference to the applicant the plans of which it finds and determines are best adapted to develop, conserve, and utilize in the public interest the water resources of the region, if it be satisfied as to the ability of the applicant to carry out such plans.

### **(b) Development of water resources by United States; reports**

Whenever, in the judgment of the Commission, the development of any water resources for public purposes should be undertaken by the United States itself, the Commission shall not approve any application for any project affecting such development, but shall cause to be made such examinations, surveys, reports, plans, and estimates of the cost of the proposed development as it may find necessary, and shall submit its findings to Congress with such recommendations as it may find appropriate concerning such development.

### **(c) Assumption of project by United States after expiration of license**

Whenever, after notice and opportunity for hearing, the Commission determines that the United States should exercise its right upon or after the expiration of any license to take over any project or projects for public purposes, the Commission shall not issue a new license to the original licensee or to a new licensee but shall submit its recommendation to Congress together with such information as it may consider appropriate.

(June 10, 1920, ch. 285, pt. I, §7, 41 Stat. 1067 ; renumbered pt. I and amended, Aug. 26, 1935, ch. 687, title II, §§205, 212, 49 Stat. 842 , 847; Pub. L. 90-451, §1, Aug. 3, 1968, 82 Stat. 616 ; Pub. L. 99-495, §2, Oct. 16, 1986, 100 Stat. 1243 ; Pub. L. 115-325, title II, §201(a), Dec. 18, 2018, 132 Stat. 4459 .)

### **EDITORIAL NOTES**

### **CODIFICATION**

Additional provisions in the section as enacted by act June 10, 1920, directing the commission to investigate the cost and economic value of the power plant outlined in project numbered 3, House Document numbered 1400, Sixty-second Congress, third session, and also in connection with such project to submit plans and estimates of cost necessary to secure an increased water supply for the District of Columbia, have been omitted as temporary and executed.

### **AMENDMENTS**

**2018-**Subsec. (a). Pub. L. 115-325 substituted "States, Indian tribes, and municipalities" for "States and municipalities".

**1986-**Subsec. (a). Pub. L. 99-495 inserted "original" after "hereunder or" and substituted "issued," for "issued and in issuing licenses to new licensees under section 808 of this title".

**1968-**Subsec. (c). Pub. L. 90-451 added subsec. (c).

**1935-**Act Aug. 26, 1935, §205, amended section generally, striking out "navigation and" before "water resources" wherever appearing, and designating paragraphs as subsecs. (a) and (b).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99-495 effective with respect to each license, permit, or exemption issued under this chapter after Oct. 16, 1986, see section 18 of Pub. L. 99-495, set out as a note under section 797 of this title.

**APPLICABILITY OF 2018 AMENDMENT**

Pub. L. 115-325, [title II, §201\(b\)](#), [Dec. 18, 2018](#), 132 Stat. 4459 , provided that: "The amendment made by subsection (a) [amending this section] shall not affect-

"(1) any preliminary permit or original license issued before the date of enactment of the Indian Tribal Energy Development and Self-Determination Act Amendments of 2017 [Dec. 18, 2018]; or

"(2) an application for an original license, if the Commission has issued a notice accepting that application for filing pursuant to section 4.32(d) of title 18, Code of Federal Regulations (or successor regulations), before the date of enactment of the Indian Tribal Energy Development and Self-Determination Act Amendments of 2017."

**DEFINITION OF INDIAN TRIBE**

Pub. L. 115-325, [title II, §201\(c\)](#), [Dec. 18, 2018](#), 132 Stat. 4459 , provided that: "For purposes of section 7(a) of the Federal Power Act (16 U.S.C. 800(a)) (as amended by subsection (a)), the term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)."