

16 USC

§ 797. General powers of Commission

(e) Issue of licenses for construction, etc., of dams, conduits, reservoirs, etc.

To issue licenses to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of the United States or any State thereof, or to any State or municipality for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from, or in any of the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam, except as herein provided: Provided, That licenses shall be issued within any reservation only after a finding by the Commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as the Secretary of the department under whose supervision such reservation falls shall deem necessary for the adequate protection and utilization of such reservation: ^[1] The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such conditions. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted by the relevant resource agency in accordance with the regulations promulgated under this subsection and within the time frame established by the Commission for each license proceeding. Within 90 days of August 8, 2005, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission. ^[2] Provided further, That no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting the navigation have been approved by the Chief of Engineers and the Secretary of the Army. Whenever the contemplated improvement is, in the judgment of the Commission, desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, a finding to that effect shall be made by the Commission and shall become a part of the records of the Commission: Provided further, That in case the Commission shall find that any Government dam may be advantageously used by the United States for public purposes in addition to navigation, no license therefor shall be issued until two years after it shall have reported to Congress the facts and conditions relating thereto, except that this provision shall not apply to any Government dam constructed prior to June 10, 1920: And provided further, That upon the filing of any application for a license which has not been preceded by a preliminary permit under subsection (f) of this section, notice shall be given and published as required by the proviso of said subsection. In deciding whether to issue any license under this subchapter for any project, the Commission, in addition to the power and development purposes for which licenses are issued, shall give equal consideration to the purposes of energy conservation, the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat), the protection of recreational opportunities, and the preservation of other aspects of environmental quality.

§ 801. Transfer of license; obligations of transferee

No voluntary transfer of any license, or of the rights thereunder granted, shall be made without the written approval of the commission; and any successor or assign of the rights of such licensee, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the conditions of the license under which such rights are held by such licensee and also subject to all the provisions and conditions of this chapter to the same extent as though such successor or assign were the original licensee under this chapter: Provided, That a mortgage or trust deed or judicial sales made thereunder or under tax sales shall not be deemed voluntary transfers within the meaning of this section.

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Title 18: Conservation of Power and Water Resources

PART 9—TRANSFER OF LICENSE OR LEASE OF PROJECT PROPERTY

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Authority: Sec. 8, 41 Stat. 1068, sec. 309, 49 Stat. 858; 16 U.S.C. 801, 825h; Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*)

Cross Reference: For application for approval of transfer of license, see § 131.20 of this chapter.

Application for Transfer of License

§ 9.1 Filing.

Any licensee desiring to transfer a license or rights thereunder granted, and the person, association, corporation, State, or municipality desiring to acquire the same, shall jointly or severally file an application for approval of such transfer and acquisition. Such application shall be verified, shall conform to § 131.20 of this chapter, and shall be filed in accordance with § 4.32 of this chapter.

[Order 501, 39 FR 2267, Jan. 18, 1974, as amended by Order 2002, 68 FR 51139, Aug. 25, 2003]

§ 9.2 Contents of application.

Every application for approval of such transfer and acquisition by the proposed transferee shall set forth in appropriate detail the qualifications of the transferee to hold such license and to operate the property under license, which qualifications shall be the same as those required of applicants for license.

[Order 141, 12 FR 8491, Dec. 19, 1947]

Cross References: For administrative rules relating to applicants for license, see part 385 of this chapter. For regulations as to licenses and permits, see part 4 of this chapter.

§ 9.3 Transfer.

(a) Approval by the Commission of transfer of a license is contingent upon the transfer of title to the properties under license, delivery of all license instruments, and a showing that such transfer is in the public interest. The transferee shall be subject to all the conditions of the license and to all the provisions and conditions of the act, as though such transferee

were the original licensee and shall be responsible for the payment of annual charges which accrue prior to the date of transfer.

(b) When the Commission shall have approved the transfer of the license, its order of approval shall be forwarded to the transferee for acknowledgment of acceptance. Unless application for rehearing is filed, or unless the order is stayed by the Commission, the order shall become final thirty (30) days from date of issuance and the acknowledgment of acceptance shall be filed in triplicate with the Commission within sixty (60) days from date of issuance accompanied by a certified copy of the deed of conveyance or other instrument evidencing transfer of the property under license, together with evidence of the recording thereof.

[Order 175, 19 FR 5217, Aug. 18, 1954]

Application for Lease of Project Property

§ 9.10 Filing.

Any licensee desiring to lease the project property covered by a license or any part thereof, where the lessee is granted the exclusive occupancy, possession, or use of project works for purposes of generating, transmitting, or distributing power, and the person, association, or corporation, State, or municipality desiring to acquire the project property by lease, must file the proposed lease together with the application in accordance with § 4.32(b)(1) of this chapter. The application and the Commission's action on it will, in general, be subject to the provisions of §§ 9.1 through 9.3.

[Order 737, 75 FR 43403, July 26, 2010]