

§ 806.5

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unless such project satisfies the requirements of paragraphs (b) or (c) of this section or the Commission approval for such project is transferred pursuant to § 806.6.

(4) Any project on or crossing the boundary between two member states.

(5) Any project in a member state having a significant effect on water resources in another member state.

(6) Any project which has been or is required to be included by the Commission in its comprehensive plan, or will have a significant effect upon the comprehensive plan.

(7) Any other project so determined by the commissioners or Executive Director pursuant to § 806.5 or 18 CFR part 801. Such project sponsors shall be notified in writing by the Executive Director.

(b) Any project that did not require Commission approval prior to January 1, 2007, and undergoing a change of ownership, shall be exempt from the requirements of paragraph (a)(1)(iv), (a)(2)(v) or (a)(3)(iv) of this section if it satisfies any of the following categories:

(1) A corporate reorganization of the following types:

(i) Where property is transferred to a corporation by one or more corporations solely in exchange for stock or securities of the transferee corporation, provided that immediately after the exchange the transferor corporation(s) own 80 percent of the voting stock and 80 percent of all other stock of the transferee corporation.

(ii) Where the corporate reorganization is merely a result of a change of the name, identity, internal corporate structure or place of organization and does not affect ownership or control.

(2) Transfer of a project to the transferor's spouse or one or more lineal descendants, or any spouse of such lineal descendants, or to a corporation owned or controlled by the transferor, or the transferor's spouse or lineal descendants, or any spouse of such lineal descendants, for so long as the combined ownership interest of the transferor, the transferor's spouse and/or the transferor's lineal descendant(s) and their spouses, continues to be 51 percent or greater.

(3) Transfer of land used primarily for the raising of food, fiber or forage crops, trees, flowers, shrubs, turf, livestock, or poultry, or for aquaculture, to the extent that, and for so long as, the project's water use continues to be for such agricultural water use purposes.

(c) Any project that did not require Commission approval prior to January 1, 2007, and not otherwise exempt from the requirements of paragraph (a)(1)(iv), (a)(2)(v) or (a)(3)(iv) pursuant to paragraph (b) of this section, may be undertaken by a new project sponsor upon a change of ownership pending action by the Commission on an application submitted by such project sponsor requesting review and approval of the project, provided such application is submitted to the Commission in accordance with this part on or before the date change of ownership occurs and the project features related to the source, withdrawal, diversion or consumptive use of water, or the nature or quantity of water withdrawal, diversion or consumptive use associated with the project do not change pending review of the application. For purposes of this paragraph, changes in the quantity of water withdrawal, diversion or consumptive use shall only relate to increases in quantity in excess of the quantity withdrawn, diverted or consumptively used prior to the change of ownership.

§ 806.5 Projects that may require review and approval.

(a) The following projects, if not otherwise requiring review and approval under § 806.4, and provided that the project sponsor is notified in writing by the Executive Director, may be subject to Commission review and approval as determined by the Commission or the Executive Director:

(1) Projects that may affect interstate water quality.

(2) Projects within a member state that have the potential to affect waters within another member state. This includes, but is not limited to, projects which have the potential to alter the physical, biological, chemical or hydrological characteristics of water

resources of interstate streams designated by the Commission under separate resolution.

(3) Projects that may have a significant effect upon the comprehensive plan.

(4) Projects not included in paragraphs (a)(1) through (a)(3) of this section, but which could have an adverse, adverse cumulative, or interstate effect on the water resources of the basin.

(b) Determinations by the Executive Director may be appealed to the Commission within 30 days after receipt of notice of such determination as set forth in § 808.2.

§ 806.6 Transfer of approvals.

(a) An existing Commission project approval may be transferred, or conditionally transferred, without prior Commission review and approval, to a new project sponsor upon a change of ownership of the project, subject to the provisions of paragraphs (b), (c) and (d) below, provided the new project sponsor notifies the Commission in advance of the date of the change of ownership, which notice shall be on a form and in a manner prescribed by the Commission and under which the new project sponsor certifies its intention to comply with all terms and conditions of the transferred approval and assume all other associated obligations.

(b) An existing Commission project approval for any of the following categories of projects may be transferred, without Commission review or approval, upon a change of ownership and the new project sponsor may operate such project under the terms and conditions of the transferred approval:

(1) A project undergoing a change of ownership as a result of a corporate reorganization of the following types:

(i) Where property is transferred to a corporation by one or more corporations solely in exchange for stock or securities of the transferee corporation, provided that immediately after the exchange the transferor corporation(s) own 80 percent of the voting stock and 80 percent of all other stock of the transferee corporation.

(ii) Where the corporation reorganization is merely a result of a change of the name, identity, internal cor-

porate structure or place of organization and does not affect ownership or control.

(2) A project being transferred to the transferor's spouse or one or more lineal descendants, or any spouse of such lineal descendants, or to a corporation owned or controlled by the transferor, or the transferor's spouse or lineal descendants, or any spouse of such lineal descendants, for so long as the combined ownership interest of the transferor, the transferor's spouse and/or the transferor's lineal descendant(s) and their spouses, continues to be 51 percent or greater.

(3) A project involving the transfer of land used primarily for the raising of food, fiber or forage crops, trees, flowers, shrubs, turf, livestock or poultry, or for aquaculture, to the extent that, and for so long as, the project's water use continues to be for such agricultural water use purposes.

(4) A project that satisfies all of the following conditions:

(i) The existing Commission approval is less than ten (10) years old.

(ii) The project has no associated precompact consumptive water use.

(iii) The project has no associated diversion that was initiated prior to January 23, 1971.

(iv) The project has no associated groundwater withdrawal that was initiated prior to July 13, 1978, unless such withdrawal has otherwise been approved by the Commission.

(v) The project has no associated surface water withdrawal that was initiated prior to November 11, 1995, unless such withdrawal has otherwise been approved by the Commission.

(vi) The project is not the subject of a pending compliance or enforcement matter before the Commission.

(vii) The project features related to the source, withdrawal, diversion or consumptive use of water, or the nature or quantity of water withdrawal, diversion or use associated with the project, as identified in the existing Commission approval, have not changed or will not change upon its transfer. For purposes of this paragraph, changes in the quantity of water withdrawal, diversion or consumptive use shall only relate to increases in quantity in excess of the approved