(1) Any pipeline and pipeline system or processing facility which transports or processes oil and gas after it passes through the meters of a producing field located within reserves that are being acquired; and

(2) Any pipeline or pipeline system that receives gas directly from wells for transportation to a natural gas processing facility or other destination.

Examples: 1. “A,” an oil company, proposes to acquire for $180 million oil reserves currently in production along with field pipelines and treating and metering facilities which serve such reserves exclusively. The acquisition of the reserves and the associated assets are exempt. “A” will also acquire from “B” for in excess of $50 million (as adjusted) a natural gas processing plant and its associated gathering pipeline system. This acquisition is not exempt since §802.3(c) excludes these assets from the exemption in §802.3 for transfers of associated exploration or production assets.

2. “A,” an oil company, proposes to acquire a coal mine currently in operation and associated production assets for $90 million from “B,” an oil company. “A” will also purchase from “B” producing oil reserves valued at $100 million and an oil refinery valued at $13 million. The acquisition of the coal mine and the oil reserves is exempt pursuant to §802.3. Although §802.3(c) excludes the refinery from the exemption in §802.3 for transfers of associated exploration and production assets, “A”’s acquisition of the refinery is not subject to the notification requirements of the Act because its value does not exceed $50 million (as adjusted).

4. “X” proposes to acquire from “Z” coal reserves which, together with associated exploration assets, are valued at $250 million. Since the value of the reserves and the assets exceeds the $200 million limitation in §802.3(b), this transaction is not exempt under §802.3. However, if the coal reserves qualify as unproductive property under the requirements of §802.2(c), their acquisition, along with the acquisition of their associated assets, would be exempt.

§802.4 Acquisitions of voting securities of issuers or non-corporate interests in unincorporated entities holding certain assets the acquisition of which is exempt.

(a) An acquisition of voting securities of an issuer or non-corporate interests in an unincorporated entity whose assets together with those of all entities it controls consist or will consist of assets whose acquisition is exempt from the requirements of the Act pursuant to section 7A(c) of the Act, this part 802, or pursuant to §801.21, is exempt from the reporting requirements if the acquired issuer or unincorporated entity and all entities it controls do not hold non-exempt assets with an aggregate fair market value of more than $50 million (as adjusted). The value of voting or non-voting securities of any other issuer or interests in any unincorporated entity not included within the acquired issuer or unincorporated entity does not count toward the $50 million (as adjusted) limitation for non-exempt assets.

(b) For purposes of paragraph (a) of this section, the assets of all issuers and unincorporated entities that are being acquired from the same acquired person are included in determining if the limitation for non-exempt assets is exceeded.

(c) In connection with paragraph (a) of this section and §801.15(b), the value of the assets of an issuer whose voting securities or an unincorporated entity whose non-corporate interests are being acquired pursuant to this section shall be the fair market value, determined in accordance with §801.15(c).

Examples: 1. “A,” a real estate investment company, proposes to purchase 100 percent of the voting securities of C, a wholly-owned subsidiary of “B,” a construction company. C’s assets are a newly constructed, never occupied hotel, including fixtures, furnishings and insurance policies. The acquisition of the hotel would be exempt under §802.2(a) as a new facility and under §802.2(d). Therefore, the acquisition of the voting securities of C is exempt pursuant to §802.4(a) since C holds...
assets whose direct purchase would be exempt under §802.2 and does not hold non-exempt assets exceeding $50 million (as adjusted) in value.

2. “A” proposes to acquire 60 percent of the voting securities of C from “B.” C’s assets consist of a portfolio of mortgages valued at $55 million and a small manufacturing plant valued at $30 million. The manufacturing plant is an operating unit for purposes of §802.1(a). Since the acquisition of the mortgages would be exempt pursuant to Section 7A(c)(2) of the act and since the value of the non-exempt manufacturing plant is less than $50 million (as adjusted), this acquisition is exempt under §802.4(a).

3. “A” proposes to acquire from “B” 100 percent of the voting securities of each of three issuers, M, N and O, simultaneously. M’s assets consist of oil reserves worth $160 million and coal reserves worth $30 million. N has assets consisting of $130 million of gas reserves and $100 million of coal reserves. O’s assets are oil shale reserves worth $140 million and a coal mine worth $80 million. Since “A” is simultaneously acquiring the voting securities of three issuers from the same acquired person, it must aggregate the assets of the issuers to determine if any of the limitations in §802.3 is exceeded. As a result of aggregating the assets of M, N and O, “A’s” holdings of oil and gas reserves are below the $500 million limitation for such assets in §802.3(a). However, the aggregated holdings exceed the $200 million limitation for coal reserves in §802.3(b). “A’s” acquisition therefore is not exempt, and it must report the entire transaction.


§ 802.5 Acquisitions of investment rental property assets.

(a) Acquisitions of investment rental property assets shall be exempt from the requirements of the act.

(b) Investment rental property assets. “Investment rental property assets” means real property that will not be rented to entities included within the acquiring person except for the sole purpose of maintaining, managing or supervising the operation of the real property, and will be held solely for rental or investment purposes. In an acquisition that includes investment rental property assets, the transfer of any property or assets that are not investment rental property assets shall be subject to the requirements of the act and these rules as if they were being acquired in a separate transaction. Investment rental property assets include:

(1) Property currently rented,
(2) Property held for rent but not currently rented,
(3) Common areas on the property, and
(4) Assets incidental to the ownership of property, which may include cash, prepaid taxes or insurance, rental receivables and the like.

Example:

1. “X”, a corporation, proposes to purchase a sports/entertainment complex which it will rent to professional sports teams and promoters of special events for concerts, ice shows, sporting events and other entertainment activities. “X” will provide office space in the complex for “Y”, a management company which will maintain and manage the facility for “X”. This acquisition is an exempt acquisition of investment rental property assets since “X” intends to rent the facility to third parties and is providing space within the facility to a management company solely to maintain, manage or supervise the operation of the facility on its behalf. If, however, “X” controls Z, a concert promoter to whom it also intends to rent the complex, the acquisition would not be exempt under §802.5, since the property would not meet the requirements of §802.5(b)(1).

2. “X” intends to buy from “Y” a development commonly referred to as an industrial park. The industrial park contains a warehouse/distribution center, a retail tire and automobile parts store, an office building, and a small factory. The industrial park also contains several parcels of vacant land. If “X” intends to acquire this industrial park as investment rental property, the acquisition will be exempt pursuant to §802.5. If, however, “X” intends to use the factory for its own manufacturing operations, this exemption would be unavailable. The exemptions in §802.2 for warehouses, rental space, office buildings, and undeveloped land may still apply and, if the value of the factory is $50 million (as adjusted) or less, the entire transaction may be exempted by that section.


§ 802.6 Federal agency approval.

(a) For the purposes of section 7A(c)(6) and (c)(8), the term information and documentary material includes one copy of all documents, application forms, and all written submissions of