

# Reclamation Manual

## Directives and Standards

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### Reclamation Categorical Exclusion (CE) in 516 Departmental Manual (DM) 14.5 F (1)

1. Qualification factors under 516 DM 14.5 F (1) are as follows:
  - A. The potential transferee must demonstrate the technical capability to maintain and operate the facilities and lands on a permanent basis and an ability to meet financial obligations associated with the transferred assets.
  - B. The potential transferee must affirm that it has no plans to change the maintenance, operations, or use of the lands and water associated with the transferred facilities.
  - C. The potential transferee must ensure that there are no competing demands for use of the transferred facilities, with the exception of those demands accommodated by existing contractual arrangements.
  - D. The potential transferee must ensure that the facilities proposed for transfer are not hydrologically integrated with other facilities, thereby impacting other contractors, stakeholders or activities, with the exception of those impacts accommodated by existing contractual arrangements.
  - E. The transfer would not include lands or facilities involving Indian trust responsibilities.
  - F. The potential transferee must ensure that issues involving existing contracts and agreements, and interstate compacts and agreements, are resolved, and treaty and international agreement obligations are fulfilled prior to transfer.
  - G. The potential transferee must assume responsibility for all commitments and agreements into the future.
  - H. Potentially affected state, local, and tribal governments, appropriate Federal agencies, and the public will be notified of the initiation of discussion to transfer title and will have: (a) the opportunity to comment and suggest options for remedying any problems; and (b) full access to relevant information, including proposals, analyses, and reports related to the proposed transfer.
2. Considerations to determine whether the project is consistent with the CE language and Qualification Factors include the following:
  - A. The requestor's future project plans include maintenance, rehabilitation, and replacement of existing federal facilities within the same facility footprint and prism, and for the same type, location, and size of existing infrastructure. The following are examples of activities would not qualify for the CE:
    - (1) new routing of pipelines, canals, or laterals;

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- B. The requestor's future project plans include only minor construction activities that would result in no new ground disturbance and no adverse effect. The following are examples of activities would not qualify for the CE:
  - (1) lining existing canals within the same footprint but would dewater adjacent wetlands; or
  - (2) construction of new roads, facilities and/or buildings.
- C. The requestor's future project plans include no increase or change in timing of diversions and discharges and there would be no new ground disturbance and no adverse effect. For example, replacement or addition of measurement systems to monitor and regulate flows, would qualify for the CE, if contained within the existing facility prism and
- D. The requestor's future project plans for the transferred facilities do not change or lead to changes in use of project lands or waters. The following are examples of activities would not qualify for the CE:
  - (1) plans to change project purposes from ag to M&I; or
  - (2) plans for the facilities to serve new uses, such as for water transfers or excess capacity; or
  - (3) future plans to expand project water delivery.
- 3. Reclamation will make the determination on the appropriate level of NEPA review and documentation, including whether a requested title transfer satisfies the CE language and qualification factors or would trigger any of the extraordinary circumstances as described in 43 CFR 46.215,
- 4. Although the qualification factors for the CE are similar to eligibility criteria under the 43 U.S.C. 2902, et seq., eligibility under one does not indicate eligibility under the other.
- 5. Consistent with the tenants of NEPA, the NEPA analysis is to be proportionate to the significance of issues. Therefore, the inability to apply the CE because the language or Qualification Factors are not met, would not indicate an extensive analysis unless there are other indicators of significant issues.