

FACT SHEET 12

TRUSTS AND ESTATES

Reclamation Reform Act of 1982 (RRA)

This fact sheet details how the acreage limitation provisions, as established by the RRA, are applied to trusts and estates. If you are unsure of the information discussed in this fact sheet, contact your district or the appropriate Bureau of Reclamation office, or see the **Sources for more information** section at the end of this fact sheet.

How does Reclamation categorize the various types of trusts that exist?

There are many different kinds of trusts. For acreage limitation purposes, there are considered to be three main categories of trusts:

Irrevocable trust – A trust that does not allow any individual, including the grantor or beneficiaries, the discretion to decide when or under what conditions the trust terminates, and that upon termination, the title to the land transfers either directly or indirectly to a person **other than the grantor**.

Grantor revocable trust – A trust that may be revoked at the discretion of the grantor, or terminated by the terms of the trust, **and** revocation or termination results in title to the land held in trust reverting either directly or indirectly to the grantor.

Otherwise revocable trust – A trust that is the same as a grantor revocable trust, **except** that the trust may also be revoked at the discretion of parties other than the grantor, **and** revocation or termination results in the title to the land held in trust transferring either directly or indirectly to a person or entity **other than the grantor**.

How does the RRA and its associated regulations apply to trusts?

The RRA and its associated regulations (43 CFR¹ part 426; Regulations) specify that trustees that hold (directly or indirectly own or lease) land for the benefit of another will not be subject to the acreage limitation provisions **provided** that the trust in which the land is held meets all of the general criteria specified on the next page.

- This does not apply to a trustee's land that is held outside of the trust in districts that are subject to the acreage limitation provisions.
- The RRA includes special criteria applicable to **grantor or otherwise revocable trusts**, as specified below.
- Any trust that holds irrigable and/or irrigation must be **reviewed by Reclamation** to determine whether the trust meets all of the criteria specified below.

¹ Code of Federal Regulations

What are the general criteria all trusts must meet?

The following criteria will determine if the land held in trust is eligible to receive Reclamation irrigation water and the rate to be charged for that water. The trust document must:

- Be in writing,
- Identify the beneficiaries, **and**
- Identify the interests of the beneficiaries.

How will trust land be attributed for an irrevocable trust?

Provided that all of the general trust criteria above are met, the land held by an irrevocable trust will be attributed to the **beneficiaries** (not the grantor or the trustee) of the trust as identified within the trust document and included on the appropriate RRA forms, if RRA forms are required.

If one or more of the general trust criteria above are not met, the land held by the trust will be attributed to the **trustee**.

How will trust land be attributed for a grantor revocable trust and an otherwise revocable trust?

Provided that all of the general trust criteria above are met, the following criteria are also applied to a grantor revocable trust or an otherwise revocable trust:

- The grantor must be identified in the trust document,
- How the trust is revoked or terminated must be identified in the trust document, **and**
- The recipients of the land upon revocation or termination must be identified in the trust document.

If **all** of the criteria above for a grantor revocable trust or an otherwise revocable trust are met, then:

- Land held by a grantor revocable trust will be attributed to the **grantor**.
- Land held by an otherwise revocable trust will be attributed to the **beneficiaries**.

If one or more of the criteria above for a grantor revocable trust or an otherwise revocable trust is **not** met, then the land held by the trust will be **ineligible** to receive Reclamation irrigation water. The land will remain ineligible to receive Reclamation irrigation water until the trust document is revised to include the missing information. This applies even if all of the general trust criteria are met.

- For land held by a **grantor revocable trust**, the only exception will be in the case where the grantor is already claiming attribution of the land held by the trust on all required RRA forms. In that case, the land held by the trust will be eligible to receive Reclamation irrigation water as long as it meets the applicable ownership entitlement for the grantor.
 - If the grantor exceeds the grantor's individual RRA form submittal threshold, the grantor is required to submit an RRA form that shows attribution of land from the trust.

- For land held by an **otherwise revocable trust**, if the trust does not meet the general trust criteria but does meet the criteria for an otherwise revocable trust, then the land held by the trust will be attributed to the **trustee**. The trustee will need to submit RRA forms if the trustee exceeds the applicable RRA forms submittal threshold.

What is a class of beneficiaries?

A class of beneficiaries is a group of beneficiaries that are identified as a group rather than by specific names, such as “the grantor’s grandchildren.” A class of beneficiaries within a trust document is acceptable for acreage limitation purposes **provided** that:

- The class of beneficiaries is comprised of identifiable natural persons or legal entities (they cannot be unborn or deceased persons or entities not yet established), **and**
- The beneficial interest of each member of the class is identified within the trust document.

For example, an acceptable class of beneficiaries would be, “All of the grantor’s grandchildren once they reach the age of 18, who will each receive an equal share of the land.” The beneficiaries are identifiable living persons, and the interest for each is clearly stated. However, if none of the grandchildren are yet 18 years of age, then the trust document must identify to whom the trust assets are attributed in the meantime, or the class of beneficiaries will not be acceptable for acreage limitation purposes. In addition, the inclusion of subjective requirements in order to be a member of a class of beneficiaries (for example, the grandchild must be “mature”) may result in Reclamation determining the class is not acceptable for acreage limitation purposes.

How does the RRA and its associated regulations apply to estates?

An estate will exist for acreage limitation purposes if:

- An administrator (executor) is specified by a will or through the courts who is responsible for the estate’s assets, **and**
- The beneficiaries (heirs) are identified.

If both of the above criteria for an estate are met, then the estate is treated in the same manner as a trust and attribution of land held by the estate will be to the identified **beneficiaries**. If there is an administrator but no identified beneficiaries, then attribution of land held by the estate will be to the **administrator**. If there is no specified administrator and title to the land in question has passed to the identified beneficiaries, then an estate does not exist for acreage limitation purposes and the identified **beneficiaries** become the direct landholders of the land. If neither of the above criteria for an estate is met, then Reclamation must be able to determine who is receiving Reclamation irrigation water on the land in question and by whose authority, or the land will be **ineligible** to receive Reclamation irrigation water.

What are the acreage limitation entitlements of a trust or estate?

The RRA and its associated regulations do not specifically limit the amount of land a trust or estate can hold and irrigate with Reclamation irrigation water at the nonfull-cost rate.

- The acreage limitation entitlements of the trust or estate will be based on the **combined entitlements** applicable to the individual(s) or entity(ies) to which the land is attributed (the grantors, trustees, beneficiaries, or administrators).

- However, a trust’s or estate’s acreage limitation entitlements may be limited by parties attributed with trust or estate land who exceed their own applicable entitlements. An individual’s or entity’s interest in land held by a trust or estate, **in combination** with any other land held by the individual or entity, cannot exceed the acreage limitation entitlements applicable to the individual or entity.
 - In other words, the amount of trust or estate land that can receive Reclamation irrigation water, or receive such water at the nonfull-cost rate, may be reduced by beneficiaries, trustees, etc., who are required to identify land attributed to them through the trust or estate as excess land or full-cost land in order to comply with their own individual or entity entitlements.

When must a trust or estate submit RRA forms?

A “Declaration of Trust’s or Estate’s Landholdings” (Form 7-21TRUST) must be submitted by the trustee or administrator for a trust or estate that exceeds the applicable RRA form submittal threshold. When determining if the applicable RRA form submittal threshold for the trust has been exceeded, land held by the trust’s wholly owned entity(ies), if any, must be included. The following table shows the RRA form submittal thresholds for a trust or estate (**not** the individuals or entities to which land in a trust or estate is attributed).

Acreage Limitation Status of the District Where the Trust or Estate Land is Located and the Number of Natural Persons to Whom the Land is Attributed	District RRA Forms Submittal Category 1	District RRA Forms Submittal Category 2
Discretionary provisions district:		
Trust or estate land attributed to 25 or fewer natural persons	240 acres	80 acres
Trust or estate land attributed to more than 25 natural persons	40 acres	40 acres
Prior law provisions district: *	N/A	40 acres
* If everyone attributed with the land held by the trust or estate is subject to the discretionary provisions, then the trust has an 80-acre RRA forms submittal threshold.		

Who else must submit an RRA form?

Individuals and entities attributed with land held by a trust or estate have their own applicable RRA forms submittal thresholds. Land attributed to the individual or entity through the trust or estate, **in combination** with land held outside of the trust or estate, is taken into account when determining if an individual or entity exceeds the applicable RRA forms submittal threshold. See the **Sources for more information** section at the end of this fact sheet for references to fact sheets pertaining to RRA forms, district RRA forms submittal categories, and acreage limitation entitlements for individuals and entities.

For example, if land held by a trust (the total acreage of which exceeds the applicable RRA forms submittal threshold) is attributed to:

- **The grantor** (an individual), and the grantor happens to also be the trustee of the trust, then in order for the land held by the trust to be eligible to receive Reclamation irrigation water the grantor must:
 - Submit a Form 7-21TRUST for the trust as the trustee, **and**
 - Submit his/her own RRA form as an individual if his/her total landholdings exceed the RRA forms submittal threshold applicable to him/her as an individual.
- **A class of beneficiaries**, then in order for the land held by the trust to be eligible to receive Reclamation irrigation water :
 - The **trustee** must submit a Form 7-21TRUST for the trust, **and**

- **Each beneficiary** in the class of beneficiaries must submit his/her/its own RRA form as an individual or entity if their total landholdings exceed the applicable RRA forms submittal threshold.
 - A trust that includes a class of beneficiaries and every beneficiary in such a trust **cannot fulfill their annual RRA forms submittal requirement** by submitting a “Verification of Landholdings” (Form 7-21VERIFY), and must instead annually submit a standard RRA form.

Important things to be aware of with regard to trusts and estates

- The transfer of land title to a trust can trigger the landholding change requirements (see Fact Sheet 11, Landholding Changes), impact annual RRA forms submittal requirements, and in certain cases can change the applicable acreage limitation entitlements.
 - When title to land is deeded or transferred to a trust or estate, the **owner of record** becomes the trust or estate and RRA forms are required to be submitted by the trust or estate as the landholder of the land in question.
 - This applies even if the land deed or transfer was completed by the execution of a will.
 - This applies even if the grantor(s) of a trust is also the beneficiary(ies) of the trust.
 - A surviving prior law spouse who transfers land to a trust after his/her spouse’s death may immediately reduce their applicable acreage limitation entitlements under the prior law provisions.
 - Land attributed through a trust or estate to a dependent that is subject to the discretionary provisions will instead be attributed to the dependent’s parent(s) or guardian(s).
- Life estates are generally not trusts for acreage limitation purposes. Contact your district or the appropriate Reclamation office for further guidance on the different types of life estates.

Sources for more information

More information for your landholding situation, the RRA forms, district RRA forms submittal categories, and acreage limitation entitlements for individuals and entities can be found in the following documents. Contact your district or the appropriate Reclamation office for further guidance.

Form 7-21INFO	General Information About the RRA Forms	The RRA Fact Sheets and the current water year’s RRA forms and instructions are available online and at your district or the appropriate Reclamation office.
Separate instructions to each RRA form applicable to your landholding situation		
RRA Fact Sheet 1	RRA Forms	
RRA Fact Sheet 2	Acreage Limitation Status	
RRA Fact Sheet 4	Qualified Recipient Entitlements	
RRA Fact Sheet 5	Qualified Recipient RRA Forms	
RRA Fact Sheet 6	Limited Recipient Entitlements	
RRA Fact Sheet 7	Limited Recipient RRA Forms	
RRA Fact Sheet 8	Prior Law Recipient Entitlements	
RRA Fact Sheet 9	Prior Law Recipient RRA Forms	
RRA Fact Sheet 10	Signature Requirements for RRA Forms	
RRA Fact Sheet 11	Landholding Changes	
RRA Fact Sheet 17	Excess Land	
RRA website (including the RRA forms, District Reference Sources, and the text of the RRA and its associated Regulations)		www.usbr.gov/rra