

Reclamation Manual

Directives and Standards

Subject:	Reclamation Standard Water-Related Contract Articles, Article 21: Clean Air and Water (Federally Assisted Programs)
Purpose:	To commit Reclamation's Standard Contract Article 21 to the Reclamation Manual, introduced by a brief description and direction regarding its use, for the benefit of making it easily accessible and promoting Reclamation-wide consistency in its use and content.
Authority:	The Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), and acts amendatory and supplementary thereto; the Clean Air Act, as amended (42 U.S.C. § 7401, et seq.); the Federal Water Pollution Control Act, as amended (Clean Water Act) (33 U.S.C. § 1251, et seq.).
Approving Official:	Director, Office of Program and Policy Services
Contact:	Office of Program and Policy Services; Contract Services Office, 84-56000

1. **Clean Air and Water (Federally Assisted Programs).** This article is included in contracts under which the contractor constructs facilities with Federal funds or is responsible for the operation and maintenance of Federal facilities, except contracts for purchases or bid offers for less than \$100,000.¹ The article requires that the contractor comply with section 114 of the Clean Air Act and section 308 of the Clean Water Act in relation to inspection, monitoring, entry, reports, and information. The article prohibits the contractor from entering into subcontracts for work to be performed in any facility listed on the Environmental Protection Agency's List of Violating Facilities. The charts included in Reclamation Manual Policy PEC P10 specify which contract types require standard article 21.
2. **Reclamation Standard Contract Article 21.**

(Federally Assisted Programs)

CLEAN AIR AND WATER²

(a) The Contractor agrees as follows:

- (1) To comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 7414), and Section 308 of the Federal Water Pollution Control Act, as amended by Public Law 92-500 (33 U.S.C. 1318), respectively, relating to inspection,

¹The article is required in contracts associated with facilities that have been the subject of convictions under the Clean Air or Federal Water Pollution Control Acts, regardless of the magnitude of the bid offer.

²Approved 1/76; Reviewed 11/84; 4/01; 01/02.

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monitoring, entry, reports, and information, as well as other requirements specified in Section 114 of the Air Act and Section 308 of the Water Act, respectively, and all regulations and guidelines issued thereunder before the execution of this contract.

(2) That no portion of the work required by this contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was executed unless and until the Environmental Protection Agency eliminates the name of such facility or facilities from such listing.

(3) To use its best efforts to comply with clean air standards and clean water standards at the facility where the contract work is being performed.

(4) To insert the substance of the provisions of this article into any nonexempt subcontract, including this paragraph (a)(4).

(b) The terms used in this article have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*).

(2) The term "Water Act" means the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in Section 110 of the Air Act (42 U.S.C. 7410), an approved implementation procedure or plan under Section 111(c) or Section 111(d), respectively, of the Air Act (42 U.S.C. 7411(c) or (d)),

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or an approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 7412(d)).

(4) The term “clean water standards” means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a state under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).

(5) The term “comply” means compliance with clean air or water standards. Comply shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency, or an air or water pollution control agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.

(6) The term “facility” means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations owned, leased, or supervised by a contractor or subcontractor to be utilized in the performance of a contract or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.