

# Reclamation Manual

## Directives and Standards

<b>Subject:</b>	Reclamation Standard Water-Related Contract Articles, Article 20: Contamination or Pollution of Federal Property
<b>Purpose:</b>	To commit Reclamation's Standard Contract Article 20 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.
<b>Authority:</b>	The Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), and acts amendatory and supplementary thereto, especially section 6 (43 U.S.C. § 498); section 5 of the Reclamation Extension Act of 1914 (Pub. L. 63-170; 43 U.S.C. § 499); subsection G of the Fact Finder's Act of 1924 (Pub. L. 68-292; 43 U.S.C. § 500); Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9601, <i>et seq.</i> , especially §§ 9607 and 9620.
<b>Approving Official:</b>	Director, Office of Program and Policy Services
<b>Contact:</b>	Office of Program and Policy Service; Contract Services Office, 84-56000

1. **Contamination or Pollution of Federal Property.** This article is included in contracts when the contractor is responsible for the operation and maintenance of Federal project lands, waters, or works. The contractor must comply with all Federal, State, and local laws and regulations concerning the production, storage, release, transportation, or disposal of hazardous materials on or in the project lands, waters, or works. The article establishes the contractor's reporting requirements and obligations upon discovery of any contamination or pollution in the water delivery system. This article also provides for sanctions, including termination of the contract, that may be imposed if a contractor violates laws concerning hazardous materials, or otherwise fails to comply with its obligations to respond to contamination or pollution and undertake necessary response actions. The charts included in Reclamation Manual Policy PEC P10 specify which contract types require standard article 20.
2. **Reclamation Standard Contract Article 20.**

### CONTAMINATION OR POLLUTION OF FEDERAL PROPERTY<sup>1</sup>

(a) The Contractor shall not allow contamination or pollution of Federal project lands, project waters, or project works of the United States or administered by the United States and for which the Contractor has the responsibility for care, operation, and maintenance by its

<sup>1</sup> Approved 01/02.

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employees or agents. The Contractor shall also take reasonable precautions to prevent such contamination or pollution by third parties.

(b) The Contractor shall comply with all applicable Federal[, State, and local]<sup>2</sup> laws and regulations and Reclamation policies and instructions existing, or hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported, stored, released, or disposed of on or in Federal project lands, project waters, or project works.

(c) "Hazardous material" means (1) any substance defined as hazardous, a pollutant, or a contaminant under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601 (14) and (33); (2) oil as defined by the Clean Water Act, 33 U.S.C. § 1321 (a) and the Oil Pollution Act, 33 U.S.C. § 2701 (23); (3) thermal pollution, refuse, garbage, sewage effluent, industrial waste, mine or mill tailings, mineral salts, pesticides, and other solid waste, and (4) any other substance regulated as hazardous or toxic under Federal [, State, local] or Tribal law.

(d) Upon discovery of any event which may or does result in contamination or pollution of Federal project lands, project water, or project works, the Contractor shall immediately undertake all measures necessary to protect public health and the environment, including measures necessary to contain or abate any such contamination or pollution and shall report such discovery with full details of the actions taken to the Contracting Officer. Reporting shall be within a reasonable time period but shall not exceed 24 hours from the time of discovery if it is an emergency and the first working day following discovery in the event of a non-emergency.

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<sup>2</sup> For contracts with federally recognized Indian tribes, the bracketed phrase may be deleted.

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(e) If violation of the provisions of this Article occurs and the Contractor does not take immediate corrective action as determined by the Contracting Officer, the Contractor may be subject to remedies imposed by the Contracting Officer, which may include termination of this contract.

(f) The contractor shall be liable for any response action or corrective measure necessary to protect public health and the environment or to restore Federal project lands, project waters, or project works that are adversely affected as a result of such violation, and for all costs, penalties or other sanctions that are imposed for violation of any Federal [, State, local] or Tribal laws and regulations concerning hazardous material. At the discretion of the Contracting Officer, the United States may also terminate this Contract as a result of such violation.

(g) The contractor shall defend, indemnify, protect and save the United States harmless from and against any costs, expenses, claims, damages, demands, or other liability arising from or relating to contractor's violation of this article.

(h) Reclamation agrees to provide information necessary for the Contractor, using reasonable diligence, to comply with the provisions of this Article.