

# Reclamation Manual

## Directives and Standards

**Subject:** Reclamation Standard Water-Related Contract Articles, Article 28: Privacy Act Compliance (All Programs with an Irrigation Function)

**Purpose:** To commit Reclamation’s Standard Contract Article 28 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; Privacy Act of 1974 (5 U.S.C. § 552a); 43 CFR 2.45, *et seq.*

**Approving Official:** Director, Office of Program and Policy Services

**Contact:** Office of Program and Policy Services; Contract Services Office, 84-56000

1. **Privacy Act Compliance (All Programs with an Irrigation Function).** This article is included in contracts for irrigation water, unless the contractor itself is the water user. It requires the contractor to maintain landholder certification reporting records and establishes the parties’ responsibilities in relation to them. The contractor and those of its employees who are responsible for the records are considered to be employees of the Department of the Interior for purposes of the application and administration of the criminal penalty provisions of the Privacy Act (5 U.S.C. § 552a(i)). The charts included in Reclamation Manual Policy PEC P10 specify which contract types require standard article 28.

2. **Reclamation Standard Contract Article 28.**

(All Programs with an Irrigation Function)

PRIVACY ACT COMPLIANCE<sup>1</sup>

(a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a) (Privacy Act) and the Department of the Interior rules and regulations under the Privacy Act (43 CFR 2.45 et seq.) in maintaining landholder certification and reporting records required to be submitted to the Contractor for compliance with Sections 206, 224(c), and 228 of the Reclamation Reform Act of 1982 (96 Stat. 1261), and pursuant to 43 CFR 426.18.

<sup>1</sup>Approved 5/87; Revised 10/87; 01/02.

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(b) With respect to the application and administration of the criminal penalty provisions of the Privacy Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees who are responsible for maintaining the certification and reporting records referenced in (a) above and are considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

(c) The Contracting Officer or a designated representative shall provide the Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Interior/WBR-31, Acreage Limitation) which govern the maintenance, safeguarding, and disclosure of information contained in the landholders' certification and reporting records.

(d) The Contracting Officer shall designate a full-time employee of the Bureau of Reclamation to be the System Manager responsible for making decisions on denials pursuant to 43 CFR 2.61 and 2.64 and amendment requests pursuant to 43 CFR 2.72. The Contractor is authorized to grant requests by individuals for access to their own records.

(e) The Contractor shall forward promptly to the System Manager each proposed denial of access under 43 CFR 2.64 and each request for amendment of records filed under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System Manager with information and records necessary to prepare an appropriate response to the requester. These requirements do not apply to individuals seeking access to their own certification and reporting forms filed with the Contractor pursuant to 43 CFR 426.18 unless the requester elects to cite the Privacy Act as authority for the request.