

Commissioner not to be required for the construction and maintenance of the relocated river channel shall be assumed by the Department of the Interior; and the Department of the Interior, United States Fish and Wildlife Service, is authorized to plan, establish, develop, and administer such portion of the acquired lands as a part of the national wildlife refuge system.

(Pub. L. 92-549, title I, § 106, Oct. 25, 1972, 86 Stat. 1162; Pub. L. 93-271, § 1(3), Apr. 22, 1974, 88 Stat. 92.)

CHANGE OF NAME

“United States Fish and Wildlife Service” substituted in text for “Fish and Wildlife Service, Bureau of Sport Fisheries and Wildlife” pursuant to section 1(3) of Pub. L. 93-271, see section 742b of Title 16, Conservation.

§ 277d-40. Authorization of appropriations

There is authorized to be appropriated to the Department of State for the use of the United States section of the International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to carry out the provisions of the treaty and title I of this Act.

(Pub. L. 92-549, title I, § 108, Oct. 25, 1972, 86 Stat. 1162.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 92-549, Oct. 25, 1972, 86 Stat. 1161, known as the “American-Mexican Boundary Treaty Act of 1972”. Title I of this Act enacted sections 277d-34 to 277d-40 of this title and amended section 1322 of Title 19, Customs Duties. For complete classification of this Act to the Code, see Short Title note set out under section 277d-34 of this title and Tables.

§ 277d-41. American-Mexican Boundary Treaty, Presidio flood control project; authorization of flood control agreement

The Secretary of State, acting through the Commissioner, is hereby authorized to conclude with the appropriate official or officials of the Government of Mexico an agreement for a coordinated plan by the United States and Mexico for international flood control works for protection of lands along the international section of the Rio Grande in the United States and in Mexico in the Presidio-Ojinaga Valley.

(Pub. L. 92-549, title II, § 201, Oct. 25, 1972, 86 Stat. 1163.)

§ 277d-42. Construction, operation, and maintenance of flood control works; authorization of appropriations; restrictions

If an agreement is concluded pursuant to section 277d-41 of this title, the Commissioner is authorized to construct, operate, and maintain flood control works located in the United States having substantially the characteristics described in “Report on the Flood Control Project Rio Grande, Presidio Valley, Texas”, prepared by the United States section, International Boundary and Water Commission, United States and Mexico; and there are hereby authorized to be appropriated to the Department of State for the use of the United States section of the Com-

mission such sums as may be necessary to carry out the provisions of title II of this Act. No part of any appropriation under this section shall be expended for flood control works on any land, site, or easement unless such land, site, or easement has been acquired under the treaty for other purposes or by donation and, in the case of a donation, the title thereto has been approved in accordance with existing rules and regulations of the Attorney General of the United States.

(Pub. L. 92-549, title II, § 202, Oct. 25, 1972, 86 Stat. 1163.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 92-549, Oct. 25, 1972, 86 Stat. 1161, known as the “American-Mexican Boundary Treaty Act of 1972”. Title II of this Act enacted sections 277d-41 and 277d-42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 277d-34 of this title and Tables.

§ 277d-43. Definitions

In sections 277d-43 to 277d-46 of this title, the following definitions apply:

(1) Administrator

The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) Commission

The term “Commission” means the United States section of the International Boundary and Water Commission, United States and Mexico.

(3) IWTP

The term “IWTP” means the South Bay International Wastewater Treatment Plant constructed under the provisions of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), section 510 of the Water Quality Act of 1987 (101 Stat. 80-82), and Treaty Minutes to the Treaty for the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, dated February 3, 1944.

(4) Secondary treatment

The term “secondary treatment” has the meaning such term has under the Federal Water Pollution Control Act and its implementing regulations.

(5) Secretary

The term “Secretary” means the Secretary of State.

(6) Mexican facility

The term “Mexican facility” means a proposed public-private wastewater treatment facility to be constructed and operated under sections 277d-43 to 277d-46 of this title within Mexico for the purpose of treating sewage flows generated within Mexico, which flows impact the surface waters, health, and safety of the United States and Mexico.

(7) Mgd

The term “mgd” means million gallons per day.

(Pub. L. 106-457, title VIII, § 803, Nov. 7, 2000, 114 Stat. 1977.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in pars. (3) and (4), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

Section 510 of the Water Quality Act of 1987, referred to in par. (3), is section 510 of Pub. L. 100-4, title V, Feb. 4, 1987, 101 Stat. 80, which is not classified to the Code.

SHORT TITLE

Pub. L. 106-457, title VIII, § 801, Nov. 7, 2000, 114 Stat. 1977, provided that: "This title [enacting this section and sections 277d-44 to 277d-46 of this title] may be cited as the 'Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000'."

PURPOSE

Pub. L. 106-457, title VIII, § 802, Nov. 7, 2000, 114 Stat. 1977, provided that: "The purpose of this title [see Short Title note above] is to authorize the United States to take actions to address comprehensively the treatment of sewage emanating from the Tijuana River area, Mexico, that flows untreated or partially treated into the United States causing significant adverse public health and environmental impacts."

§ 277d-44. Actions to be taken by the Commission and the Administrator

(a) Secondary treatment

(1) In general

Pursuant to Treaty Minute 311 to the Treaty for the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, dated February 3, 1944, and notwithstanding section 510(b)(2) of the Water Quality Act of 1987 (101 Stat. 81), the Commission is authorized and directed to provide for the secondary treatment of a total of not more than 50 mgd in Mexico—

(A) of effluent from the IWTP if such treatment is not provided for at a facility in the United States; and

(B) of additional sewage emanating from the Tijuana River area, Mexico.

(2) Additional authority

Subject to the results of the comprehensive plan developed under subsection (b) of this section revealing a need for additional secondary treatment capacity in the San Diego-Tijuana border region and recommending the provision of such capacity in Mexico, the Commission may provide not more than an additional 25 mgd of secondary treatment capacity in Mexico for treatment described in paragraph (1).

(b) Comprehensive plan

Not later than 24 months after November 7, 2000, the Administrator shall develop a comprehensive plan with stakeholder involvement to address the transborder sanitation problems in the San Diego-Tijuana border region. The plan shall include, at a minimum—

(1) an analysis of the long-term secondary treatment needs of the region;

(2) an analysis of upgrades in the sewage collection system serving the Tijuana area, Mexico; and

(3) an identification of options, and recommendations for preferred options, for addi-

tional sewage treatment capacity for future flows emanating from the Tijuana River area, Mexico.

(c) Contract

(1) In general

Notwithstanding any provision of Federal procurement law, the Commission may enter into a multiyear fee-for-services contract with the owner of a Mexican facility in order to carry out the secondary treatment requirements of subsection (a) of this section and make payments under such contract, subject to the availability of appropriations and subject to the terms of paragraph (2).

(2) Terms

Any contract under this subsection shall provide, at a minimum, for the following:

(A) Transportation of the advanced primary effluent from the IWTP to the Mexican facility for secondary treatment.

(B) Treatment of the advanced primary effluent from the IWTP to the secondary treatment level in compliance with water quality laws of the United States, California, and Mexico.

(C) Return conveyance from the Mexican facility of any such treated effluent that cannot be reused in either Mexico or the United States to the South Bay Ocean Outfall for discharge into the Pacific Ocean in compliance with water quality laws of the United States and California.

(D) Subject to the requirements of subsection (a) of this section, additional sewage treatment capacity that provides for advanced primary and secondary treatment of sewage described in subsection (a)(1)(B) of this section in addition to the capacity required to treat the advanced primary effluent from the IWTP.

(E) A contract term of 20 years.

(F) Arrangements for monitoring, verification, and enforcement of compliance with United States, California, and Mexican water quality standards.

(G) Arrangements for the disposal and use of sludge, produced from the IWTP and the Mexican facility, at a location or locations in Mexico.

(H) Maintenance by the owner of the Mexican facility at all times throughout the term of the contract of a 20 percent equity position in the capital structure of the Mexican facility.

(I) Payment of fees by the Commission to the owner of the Mexican facility for sewage treatment services with the annual amount payable to reflect all agreed upon costs associated with the development, financing, construction, operation, and maintenance of the Mexican facility, including costs associated with the purchase of any insurance or other financial instrument under subparagraph (K). Costs associated with the purchase of such insurance or other financial instrument may be amortized over the term of the contract.

(J) Neither the Commission nor the United States Government shall be liable for pay-