

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108-425, §1(a), substituted “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,” for “Subject to the negotiation and conclusion of a new Treaty Minute or the amendment of Treaty Minute 283 under section 1005 of this Act.”

Subsec. (c)(1). Pub. L. 108-425, §1(b)(1), added par. (1) and struck out former par. (1) which read as follows: “Subject to the availability of appropriations to carry out this subsection and notwithstanding any provision of Federal procurement law, upon conclusion of a new Treaty Minute or the amendment of Treaty Minute 283 under section 5, the Commission may enter into a 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.”

Subsec. (c)(2)(I). Pub. L. 108-425, §1(b)(2), substituted “, 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.” for “, with such annual payment to maintain the owner’s 20 percent equity position throughout the term of the contract.”

Subsec. (c)(2)(J), (K). Pub. L. 108-425, §1(b)(3), added subpars. (J) and (K). Former subpars. (J) and (K) redesignated (L) and (M), respectively.

Subsec. (c)(2)(L), (M). Pub. L. 108-425, §1(b)(4), added subpars. (L) and (M) and struck out former subpars. (L) and (M) which read as follows:

“(L) Provision for the transfer of ownership of the Mexican facility to the United States, and provision for a cancellation fee by the United States to the owner of the Mexican facility, if the Commission fails to perform its obligations under the contract. The cancellation fee shall be in amounts declining over the term of the contract anticipated to be sufficient to repay construction debt and other amounts due to the owner that remain unamortized due to early termination of the contract.

“(M) Provision for the transfer of ownership of the Mexican facility to the United States, without a cancellation fee, if the owner of the Mexican facility fails to perform the obligations of the owner under the contract.”

Pub. L. 108-425, §1(b)(3), redesignated subpars. (J) and (K) as (L) and (M), respectively. Former subpars. (L) and (M) redesignated (N) and (O), respectively.

Subsec. (c)(2)(N). Pub. L. 108-425, §1(b)(3), (5), redesignated subpar. (L) as (N) and inserted “under applicable law” after “competitive procedures”. Former subpar. (N) redesignated (P).

Subsec. (c)(2)(O) to (R). Pub. L. 108-425, §1(b)(3), redesignated subpars. (M) to (P) as (O) to (R), respectively.

§ 277d-45. New Treaty Minute**(a) Congressional statement**

In light of the existing threat to the environment and to public health and safety within the United States as a result of the river and ocean pollution in the San Diego-Tijuana border region, the Secretary is requested to give the highest priority to the negotiation and execution of a new Treaty Minute, or a modification of Treaty Minute 283, consistent with the provisions of sections 277d-43 to 277d-46 of this title, in order that the other provisions of sections 277d-43 to 277d-46 of this title to address such pollution may be implemented as soon as possible.

(b) Negotiation**(1) Initiation**

The Secretary is requested to initiate negotiations with Mexico, within 60 days after No-

vember 7, 2000, for a new Treaty Minute or a modification of Treaty Minute 283 consistent with the provisions of sections 277d-43 to 277d-46 of this title.

(2) Implementation

Implementation of a new Treaty Minute or of a modification of Treaty Minute 283 under sections 277d-43 to 277d-46 of this title shall be subject to the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) Matters to be addressed

A new Treaty Minute or a modification of Treaty Minute 283 under paragraph (1) should address, at a minimum, the following:

(A) The siting of treatment facilities in Mexico and in the United States.

(B) Provision for the secondary treatment of effluent from the IWTP at a Mexican facility if such treatment is not provided for at a facility in the United States.

(C) Provision for additional capacity for advanced primary and secondary treatment of additional sewage emanating from the Tijuana River area, Mexico, in addition to the treatment capacity for the advanced primary effluent from the IWTP at the Mexican facility.

(D) Provision for any and all approvals from Mexican authorities necessary to facilitate water quality verification and enforcement at the Mexican facility.

(E) Any terms and conditions considered necessary to allow for use in the United States of treated effluent from the Mexican facility, if there is reclaimed water which is surplus to the needs of users in Mexico and such use is consistent with applicable United States and California law.

(F) Any other terms and conditions considered necessary by the Secretary in order to implement the provisions of sections 277d-43 to 277d-46 of this title.

(c) Implementation

In light of the continuing threat to the environment and to public health and safety within the United States as a result of the river and ocean pollution in the San Diego-Tijuana border region, the Commission is requested to give the highest priority to the implementation of 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, which establishes a framework for the siting of a treatment facility in Mexico to provide for the secondary treatment of effluent from the IWTP at the Mexican facility, to provide for additional capacity for advanced primary and secondary treatment of additional sewage emanating from the Tijuana River area, Mexico, and to meet the water quality standards of Mexico, the United States, and the State of California consistent with the provisions of sections 277d-43 to 277d-46 of this title, in order that the other provisions of sections 277d-43 to 277d-46 of this title to address such pollution may be implemented as soon as possible.

(Pub. L. 106-457, title VIII, §805, Nov. 7, 2000, 114 Stat. 1980; Pub. L. 108-425, §2, Nov. 30, 2004, 118 Stat. 2421.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b)(2), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2004—Pub. L. 108-425, §2(1), struck out “Negotiation of” before “New” in section catchline.

Subsec. (c). Pub. L. 108-425, §2(2), added subsec. (c).

§ 277d-46. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out sections 277d-43 to 277d-46 of this title. Such sums shall remain available until expended.

(Pub. L. 106-457, title VIII, §806, Nov. 7, 2000, 114 Stat. 1981; Pub. L. 108-425, §3, Nov. 30, 2004, 118 Stat. 2421.)

AMENDMENTS

2004—Pub. L. 108-425 substituted “such sums as may be necessary” for “a total of \$156,000,000 for fiscal years 2001 through 2005”.

§ 277e. Disposal of lands; issuance of licenses for use of lands; compensation for injured property

The Secretary of State is authorized to lease any land heretofore or hereafter acquired under any Act, Executive order, or treaty in connection with projects, in whole or in part, constructed or administered by the Secretary of State through the said American Commissioner, or to dispose of such lands when no longer needed, subject to applicable regulations under chapters 1 to 11 of title 40 and division C (except sections 3302, 3306(f), 3307(e), 3501(b), 3509, 3906, 4104, 4710, and 4711) of subtitle I of title 41, by sale at public auction, after thirty days’ advertisement, at a price not less than that which may be fixed by three disinterested appraisers, to be designated by the Secretary of State, or by private sale, or otherwise, at not less than such appraised value: *Provided*, That any of such land as shall have been donated to the United States and which is no longer needed may be reconveyed, without cost, to the grantor or his heirs: *Provided, further*, That the lease or disposal of any land pursuant hereto may, in the discretion of the Secretary of State, be subject to reservations in favor of the United States for rights-of-way for irrigation, drainage, river work, and other purposes, and any such disposal may be conditioned upon and made subject to inclusion of such lands in any existing irrigation district in the vicinity of such lands, the proceeds of any such lease or sale to be covered into the Treasury of the United States: *And provided further*, That in the discretion of the Secretary of State, and subject to such conditions as he may deem appropriate, conveyances of any other of such lands not needed by the United States may be made to the State to which they lie adjacent or to any similarly situated county, city, or other governmental subdivision of such State, without cost, for use for public purposes.

The Secretary of State is further authorized to issue revokable licenses for public or private use

for irrigation or other structures or uses not inconsistent with the use of such lands made, or to be made, by the United States, across any lands retained by the United States, and to execute all necessary leases, title instruments, and conveyances, in order to carry out the provisions of this section.

Whenever the construction of any project or works undertaken or administered by the Secretary of State through the International Boundary and Water Commission, United States and Mexico, results in the interference with or necessitates the alteration or restoration of constructed and existing irrigation or water-supply structures, sanitary or sewage disposal works, or other structures, or physical property belonging to any municipal or private corporation, company, association, or individual, the Secretary of State may cause the restoration or reconstruction of such works, structures, or physical property or the construction of others in lieu thereof or he may compensate the owners thereof to the extent of the reasonable value thereof as the same may be agreed upon by the American Commissioner with such owner.

The Secretary of State acting through such officers as he may designate, is further authorized to consider, adjust, and pay from funds appropriated for the project, the construction of which resulted in damages, any claim for damages accruing after March 31, 1937, caused to owners of lands or other private property of any kind by reason of the operations of the United States, its officers or employees, in the survey, construction, operation, or maintenance of any project constructed or administered through the American Commissioner, International Boundary and Water Commission, United States and Mexico, if such claim for damages does not exceed \$1,000 and has been filed with the American Commissioner within one year after the damage is alleged to have occurred, and when in the opinion of the American Commissioner such claim is substantiated by a report of a board appointed by the said Commissioner.

(Aug. 27, 1935, ch. 763, 49 Stat. 906; June 19, 1939, ch. 212, 53 Stat. 841; Oct. 31, 1951, ch. 654, §2(15), 65 Stat. 707; Pub. L. 85-201, Aug. 28, 1957, 71 Stat. 475.)

CODIFICATION

In text, “chapters 1 to 11 of title 40 and division C (except sections 3302, 3306(f), 3307(e), 3501(b), 3509, 3906, 4104, 4710, and 4711) of subtitle I of title 41” substituted for “the Federal Property and Administrative Services Act of 1949, as amended” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1957—Pub. L. 85-201 struck out “to citizens of the United States” after “is authorized to lease” and “to American citizens” after “or to dispose of such lands” in first sentence of first paragraph, before first proviso.

1951—Act Oct. 31, 1951, inserted reference to applicable regulations of the Federal Property and Administrative Services Act of 1949, as amended, in text before first proviso of first paragraph.

1939—Act June 19, 1939, inserted last paragraph.