

22 USC CHAPTER 7, SUBCHAPTER IV: INTERNATIONAL BOUNDARY AND WATER COMMISSION

From Title 22—FOREIGN RELATIONS AND INTERCOURSE
CHAPTER 7—INTERNATIONAL BUREAUS, CONGRESSES, ETC.

SUBCHAPTER IV—INTERNATIONAL BOUNDARY AND WATER COMMISSION

§277. International Boundary Commission, United States and Mexico; study of boundary waters

The President is authorized to designate the American Commissioner on the International Boundary Commission, United States and Mexico, or other Federal agency, to cooperate with a representative or representatives of the Government of Mexico in a study regarding the equitable use of the waters of the lower Rio Grande and the lower Colorado and Tia Juana Rivers, for the purpose of obtaining information which may be used as a basis for the negotiation of a treaty with the Government of Mexico relative to the use of the waters of these rivers and to matters closely related thereto. On completion of such study the results shall be reported to the Secretary of State.

(May 13, 1924, ch. 153, §1, 43 Stat. 118; Mar. 3, 1927, ch. 381, §1, 44 Stat. 1403; Aug. 19, 1935, ch. 561, 49 Stat. 660.)

AMENDMENTS

1935—Act Aug. 19, 1935, created the International Boundary Commission to take the place of the three special commissioners.

1927—Act Mar. 3, 1927, provided for a study of Tia Juana River in addition to the lower Rio Grande and Colorado Rivers.

CHANGE OF NAME

International Boundary Commission, United States and Mexico, American section, to which powers, duties, and functions of International Water Commission, United States and Mexico, American section, were transferred by act **June 30, 1932, ch. 314, pt. II, title V, §510**, 47 Stat. 417, reconstituted as International Boundary and Water Commission by Water Treaty of 1944.

SHORT TITLE

Pub. L. 100–465, **Oct. 3, 1988**, 102 Stat. 2272, which enacted sections 277g to 277g–3 of this title, is known as the Rio Grande Pollution Correction Act of 1987. For complete classification of this Act to the Code, see Short Title note set out under section 277g of this title and Tables.

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

Pub. L. 88–300, **Apr. 29, 1964**, 78 Stat. 184, which enacted sections 277d–17 to 277d–25 of this title, is known as the American-Mexican Chamizal Convention Act of 1964. For complete classification of this Act to the Code, see Short Title note set out under section 277d–17 of this title and Tables.

Act **Sept. 13, 1950, ch. 948**, 64 Stat. 846, which enacted sections 277d–1 to 277d–9 of this title, is known as the American-Mexican Treaty Act of 1950. For complete classification of this Act to the Code, see Short Title note set out under section 277d–1 of this title and Tables.

REPEALS

Act Mar. 3, 1927, cited as a credit to this section, was repealed by Pub. L. 89–554, **§8(a), Sept. 6, 1966**, 80 Stat. 647.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

§277a. Investigations of commission; construction of works or projects

The Secretary of State, acting through the American Commissioner, International Boundary Commission, United States and Mexico, is further authorized to conduct technical and other investigations relating to the defining, demarcation, fencing, or monumentation of the land and water boundary between the United States and Mexico, to flood control, water resources, conservation, and utilization of water, sanitation and prevention of pollution, channel rectification, stabilization, drainage of transboundary storm waters, and other related matters upon the international boundary between the United States and Mexico; and to construct and maintain fences, monuments and other demarcations of the boundary line between the United States and Mexico, and sewer systems, water systems, and electric light, power and gas systems crossing the international border, and to continue such work and operations through the American Commissioner as are now in progress and are authorized by law.

The President is authorized and empowered to construct, operate, and maintain on the Rio Grande River below Fort Quitman, Texas, any and all works or projects which are recommended to the President as the result of such investigations and by the President are deemed necessary and proper.

(May 13, 1924, ch. 153, §2, 43 Stat. 118; Mar. 3, 1927, ch. 381, §2, 44 Stat. 1403; Aug. 19, 1935, ch. 561, 49 Stat. 660; Pub. L. 101–246, title IV, §412(b)(2), Feb. 16, 1990, 104 Stat. 70.)

AMENDMENTS

1990—Pub. L. 101–246 inserted reference to drainage of transboundary storm waters.

1935—Act Aug. 19, 1935, amended section generally.

1927—Act Mar. 3, 1927, increased appropriation from \$20,000 to \$50,000.

CHANGE OF NAME

International Boundary Commission, United States and Mexico, American section, to which powers, duties, and functions of International Water Commission, United States and Mexico, American section, were transferred by act **June 30, 1932, ch. 314, pt. II, title V, §510**, 47 Stat. 417, reconstituted as International Boundary and Water Commission by Water Treaty of 1944.

REPEALS

Act Mar. 3, 1927, cited as a credit to this section, was repealed by Pub. L. 89–554, **§8(a), Sept. 6, 1966**, 80 Stat. 647.

WATER RESOURCES PLANNING

Jurisdiction, powers, or prerogatives of the International Boundary and Water Commission, United States and Mexico, unaffected by Water Resources Planning Act, see section 1962–1 of Title 42, The Public Health and Welfare.

§277b. Works or projects under treaty

(a) Construction, operation, maintenance, and supervision; sewage interceptor system

The President is further authorized (1) to construct any project or works which may be provided for in a treaty entered into with Mexico and to repair, protect, maintain, or complete works now existing or now under construction or those that may be constructed under the treaty provisions aforesaid; and to construct any project or works designed to facilitate compliance with the provisions of treaties between the United States and Mexico; (2) to operate and maintain any project or works so constructed or, subject to such rules and regulations for continuing supervision by the said American Commissioner or any Federal agency as the President may cause to be promulgated, to turn over the operation and maintenance of such project or works to any Federal agency, or any State, county, municipality, district, or other political subdivision within which such project or works may be in whole or in part situated, upon such terms, conditions, and requirements as the President may deem appropriate; and (3) to carry out preliminary surveys, operations, and maintenance of the interceptor system constructed to intercept sewage flows from Tijuana from selected canyon areas.

(b) Rio Grande bank protection project

Expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions made with respect to that project in the first undesignated paragraph under the heading "INTERNATIONAL OBLIGATIONS" contained in the Act of April 25, 1945 (59 Stat. 89).

(c) Anzalduas diversion dam

The Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of the United States for such portions of the dam as shall have been allocated to such purposes by the Secretary of State.

(d) Improvements to Rio Grande Canalization Project

Pursuant to the authority of subsection (a) and in order to facilitate further compliance with the terms of the Convention for Equitable Distribution of the Waters of the Rio Grande, May 21, 1906, United States-Mexico, the Secretary of State, acting through the United States Commissioner of the International Boundary and Water Commission, may make improvements to the Rio Grande Canalization Project, originally authorized by the Act of August 29, 1935 (49 Stat. 961). Such improvements may include all such works as may be needed to stabilize the Rio Grande in the reach between the Percha Diversion Dam in New Mexico and the American Diversion Dam in El Paso. (May 13, 1924, ch. 153, §3, as added Aug. 19, 1935, ch. 561, 49 Stat. 660; amended Pub. L. 101–246, title IV, §412(b) (1), Feb. 16, 1990, 104 Stat. 70; Pub. L. 104–319, title I, §104, Oct. 19, 1996, 110 Stat. 3866.)

REFERENCES IN TEXT

The first undesignated paragraph under the heading "INTERNATIONAL OBLIGATIONS" contained in the Act of April 25, 1945 (59 Stat. 89), referred to in subsec. (b), is not classified to the Code.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–319 added subsec. (d).

1990—Pub. L. 101–246 designated existing provisions as subsec. (a), redesignated cls. (a) and (b) as (1) and (2), respectively, added cl. (3), and added subsecs. (b) and (c).

§277c. Agreements with political subdivisions; acquisition of lands

In order to carry out the provisions of sections 277 to 277d of this title, the President, or any Federal agency he may designate is authorized, (a) in his discretion, to enter into agreements with any one or more of said political subdivisions, in connection with the construction of any project or works provided for in paragraph (2) of section 277a and section 277b of this title, under the terms of which agreements there shall be furnished to the United States, gratuitously, except for the examination and approval of titles, the lands or easements in lands necessary for the construction, operation, and maintenance in whole or in part of any such project or works, or for the assumption by one or more of any such political subdivisions making such agreement, of the operation and maintenance of such project or works in whole or in part upon the completion thereof: *Provided, however,* That when an agreement is reached that necessary lands or easements shall be provided by any such political subdivision and for the future operation and maintenance by it of a project or works or a part thereof, in the discretion of the President the title to such lands and easements for such projects or works need not be required to be conveyed to the United States but may be required only to be vested in and remain in such political subdivision; (b) to acquire by purchase, exercise of the power of eminent domain, or by donation, any real or personal property which may be necessary; (c) ¹ to withdraw from sale, public entry or disposal of such public lands of the United States as he may find to be necessary and thereupon the Secretary of the Interior shall cause the lands so designated to be withdrawn from any public entry whatsoever, and from sale, disposal, location or settlement under the mining laws or any other law relating to the public domain and shall cause such withdrawal to appear upon the records in the appropriate land office having jurisdiction over such lands, and such lands may be used for carrying out the purposes of sections 277 to 277d of this title: *Provided,* That any such withdrawal may subsequently be revoked by the President; and (d) to make or approve all necessary rules and regulations.

(May 13, 1924, ch. 153, §4, as added Aug. 19, 1935, ch. 561, 49 Stat. 660; amended May 22, 1936, ch. 447, 49 Stat. 1370.)

AMENDMENTS

1936—Act May 22, 1936, inserted "paragraph (2) of section 277a".

REPEAL; SAVINGS PROVISION

Clause (c), except the proviso thereof, repealed by Pub. L. 94–579, title VII, §704(a), Oct. 21, 1976, 90 Stat. 2792, effective on and after Oct. 21, 1976. Such repeal not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94–579, set out as a note under section 1701 of Title 43, Public Lands.

¹ See Repeal; Savings Provision note below.

§277d. Funds received from Mexico; expenditure

Any moneys contributed by or received from the United Mexican States, the North American Development Bank, or the Border Environment Cooperation Commission for the purpose of cooperating or assisting in carrying out the provisions of sections 277 to 277d of this title shall be available for expenditure in connection with any appropriation which may be made for the purposes of such sections.

(May 13, 1924, ch. 153, §5, as added Aug. 19, 1935, ch. 561, 49 Stat. 660; amended Pub. L. 107–228, div. A, title II, §210, Sept. 30, 2002, 116 Stat. 1365.)

AMENDMENTS

2002—Pub. L. 107–228 inserted ", the North American Development Bank, or the Border Environment Cooperation Commission" after "United Mexican States".

§277d–1. Authorizations for Mexican treaty projects; acquisition of lands for relocation purposes; contracts and conveyances

The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico (herein referred to as the "Commission"), in connection with any project under the jurisdiction of the United States Section, International Boundary and Water Commission, United States and Mexico, is authorized: (a) to purchase, or condemn, lands, or interests in lands, for relocation of highways, roadways, railroads, telegraph, telephone, or electric transmission lines, or any other properties whatsoever, the relocation of which, in the judgment of the said Commissioner, is necessitated by the construction or operation and maintenance of any such project, and to perform any or all work involved in said relocations on said lands, or interests in lands, other lands, or interests in lands, owned and held by the United States in connection with the construction or operation and maintenance of any such project, or properties not owned by the United States; (b) to enter into contracts with the owners of the said properties whereby they undertake to acquire any, or all, property needed for said relocation, or to perform any, or all, work involved in said relocations; and (c) for the purpose of effecting completely said relocations, to convey, or exchange Government properties acquired or improved under clause (a) of this section, with or without improvements, or other properties owned and held by the United States in connection with the construction or operation and maintenance of said project, or to grant term or perpetual easements therein or thereover. Grants or conveyances hereunder shall be by instruments executed by the Secretary of State without regard to provisions of law governing the patenting of public lands.

(Sept. 13, 1950, ch. 948, title I, §101, 64 Stat. 846.)

SHORT TITLE

Act Sept. 13, 1950, ch. 948, §1, 64 Stat. 846, provided that: "This Act [enacting this section and sections 277d–2 to 277d–9 of this title] may be cited as the 'American-Mexican Treaty Act of 1950'."

§277d–2. Construction and maintenance of roads, highways, etc.; housing and other facilities for personnel

The United States Commissioner is authorized to construct, equip, and operate and maintain all access roads, highways, railways, power lines, buildings, and facilities necessary in connection with any such project, and in his discretion to provide housing, subsistence, and medical and recreational facilities for the officers, agents, and employees of the United States, and/or for the contractors and their employees engaged in the construction, operation, and maintenance of any such project, and to make equitable charges therefor, or deductions from the salaries and wages due employees, or from progress payments due contractors, upon such terms and conditions as he may determine to be to the best interest of the United States, the sums of money so charged and collected or deducted to be credited to the appropriation for the project current at the time the obligations are incurred.

(Sept. 13, 1950, ch. 948, title I, §102, 64 Stat. 846.)

§277d–3. Authorization for appropriations; activities for which available; contracts for excess amounts

There are authorized to be appropriated to the Department of State for the use of the Commission, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of the Treaty of February 3, 1944, and other treaties and conventions between the United States of America and the United Mexican States, under which the United States Section operates, and to discharge the statutory functions and duties of the United States Section. Such sums shall be available for construction, operation and maintenance of stream gaging stations, and their equipment and sites therefor; personal services and rent in the District of Columbia and elsewhere; services, including those of attorneys and appraisers, in accordance with the provisions of section 3109 of title 5, at rates for individuals not in excess of the maximum daily rate for grade GS–15 of the General Schedule and the United States Commissioner is authorized, notwithstanding the provisions of any other Act, to employ as consultants by contract or otherwise without regard to chapter 51 and subchapter III of chapter 53 of title 5, and the civil-service laws and regulations, retired personnel of the Armed Forces of the United States, who shall not be required to revert to an

active status; travel expense, including, in the discretion of the Commissioner, expenses of attendance at meetings of organizations concerned with the activities of the Commission which may be necessary for the efficient discharge of the responsibilities of the Commission; hire, with or without personal services, of work animals, and animal-drawn, and motor-propelled (including passenger) vehicles and aircraft and equipment; acquisition by donation, purchase, or condemnation, of real and personal property, including expenses of abstracts, certificates of title, and recording fees; purchase of ice and drinking water; inspection of equipment, supplies and materials by contract or otherwise; drilling and testing of foundations and dam sites, by contract if deemed necessary; payment for official telephone service in the field in case of official telephones installed in private houses when authorized under regulations established by the Commissioner; purchase of firearms and ammunition for guard purposes; official entertainment and other representation expenses within the United States for the United States section; and such other objects and purposes as may be permitted by laws applicable, in whole or in part, to the United States Section: *Provided*, That, when appropriations have been made for the commencement or continuation of construction or operation and maintenance of any such project, the United States Commissioner, notwithstanding the provisions of sections 1341, 1342, and 1349 to 1351 and subchapter II of chapter 15 of title 31, and sections 6301(a) and (b) and 6303 of title 41, or any other law, may enter into contracts beyond the amount actually appropriated for so much of the work on any such authorized project as the physical and orderly sequence of construction makes necessary, such contracts to be subject to and dependent upon future appropriations by Congress: *Provided further*, That the United States Commissioner shall prepare, within 30 days after the end of each fiscal year, a report of all expenditures during that year for official entertainment and other representation expenses, which shall be available for public inspection.

(Sept. 13, 1950, ch. 948, title I, §103, 64 Stat. 847; Pub. L. 88–448, title IV, §402(a)(29), Aug. 19, 1964, 78 Stat. 494; Pub. L. 95–105, title V, §514(c), Aug. 17, 1977, 91 Stat. 862; Pub. L. 102–138, title I, §165, Oct. 28, 1991, 105 Stat. 676.)

REFERENCES IN TEXT

Grade GS–15, referred to in text, is contained in the General Schedule which is set out under section 5332 of Title 5, Government Organization and Employees.

CODIFICATION

In text, "section 3109 of title 5" and "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "section 15 of the Act of August 2, 1946 (5 U.S.C. sec. 55a)" and "the Classification Act of 1949, as amended", respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, which Act enacted Title 5, Government Organization and Employees.

In text, "sections 1341, 1342, and 1349 to 1351 and subchapter II of chapter 15 of title 31 and sections 6301(a) and (b) and 6303 of title 41" substituted for "sections 3679, 3732, and 3733 of the Revised Statutes" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, which Act enacted Title 31, Money and Finance, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1991—Pub. L. 102–138 inserted "official entertainment and other representation expenses within the United States for the United States section;" after "guard purposes;" and concluding provision that the United States Commissioner prepare, within 30 days after the end of each fiscal year, a report of all expenditures during that year for official entertainment and other representation expenses, with such report to be available for public inspection.

1977—Pub. L. 95–105 substituted "the maximum daily rate for grade GS–15 of the General Schedule" for "\$100 per diem".

1964—Pub. L. 88–448 struck out provisions which permitted retired personnel of the Armed Forces of the United States employed by the Commission to receive as compensation for temporary service, the difference between the rates of pay established therefor and their retired pay during the period or periods of their temporary employment.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–105, title V, §514(d), Aug. 17, 1977, 91 Stat. 862, provided that: "The amendments made by this section [amending this section and sections 277d–28 and 277d–31 of this title] shall take effect on October 1, 1977."

§277d–4. Acquisition of properties of Imperial Irrigation District of California

The United States Commissioner, in order to comply with the provisions of articles 12 and 23 of the treaty of February 3, 1944, between the United States and Mexico, relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande below Fort Quitman, Texas, is authorized to acquire, in the name of the United

States, by purchase or by proceedings in eminent domain, the physical properties owned by the Imperial Irrigation District of California, located in the vicinity of Andrade, California, consisting of the Alamo Canal in the United States, the Rockwood Intake, the Hanlon Heading, the quarry, buildings used in connection with such facilities, and appurtenant lands, and to reconstruct, operate and maintain such properties in connection with the administration of said treaty.

(Sept. 13, 1950, ch. 948, title I, §104, 64 Stat. 847.)

§277d–5. Availability of prior appropriations; restriction to projects agreed to under treaty

Funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico" shall be available for the purposes of sections 277d–1 to 277d–5 of this title: *Provided*, That authorizations under said sections shall apply only to projects agreed upon by the two Governments in accordance with the treaty of February 3, 1944.

(Sept. 13, 1950, ch. 948, title I, §105, 64 Stat. 848.)

§277d–6. Douglas-Agua Prieta Sanitation Project; operation by Commission; division of costs; contribution by City of Douglas, Arizona

The Secretary of State is authorized, notwithstanding any other provision of law and subject to the conditions provided in this section and section 277d–7 of this title, to enter into an agreement with the appropriate official or officials of the United Mexican States for the operation and maintenance by the International Boundary and Water Commission, United States and Mexico, of the Douglas-Agua Prieta sanitation project, located at Douglas, Arizona, and Agua Prieta, Sonora, Mexico, heretofore constructed by the said Commission, which agreement shall contain such provisions relating to a division between the two Governments of the costs of such operation and maintenance, or of the work involved therein, as may be recommended by said Commission and approved by the Government of Mexico and by the Secretary of State on behalf of the Government of the United States: *Provided*, That no such agreement shall be entered into until the governing body of the city of Douglas, Arizona, has given assurances satisfactory to the Secretary of State that it will, so long as such agreement remains in force, contribute an equitable proportion, as determined by the United States Section of said Commission, subject to the approval of the Secretary of State, of the costs of such operation and maintenance allocated to the United States.

(Sept. 13, 1950, ch. 948, title II, §201, 64 Stat. 848.)

§277d–7. Authorization for appropriations; availability of prior appropriations; use of moneys received

There is authorized to be appropriated to the United States Section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to defray such costs as may accrue to the United States arising out of any such agreement for the operation and maintenance of such project: *Provided*, That funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico", shall be available for expenditure for the purposes of this section and section 277d–6 of this title: *Provided further*, That any moneys received from the United Mexican States under the terms of any such agreement shall be available for expenditure in connection with any appropriations which may be available or which may be made for the purposes of said sections: *And provided further*, That moneys received from the city of Douglas, Arizona, pursuant to the provisions of said sections shall be available for expenditure in connection with any appropriations which may be available or which may be made available for the purposes of said sections.

(Sept. 13, 1950, ch. 948, title II, §202, 64 Stat. 848.)

§277d–8. Calexico Mexicali Sanitation Project; operation by Commission; division of costs; contribution by City of Calexico, California

The Secretary of State is authorized, subject to the conditions provided in this section and section 277d–9 of this title, to enter into an agreement with the appropriate official or officials of the United Mexican States for the construction, operation, and maintenance by the International Boundary and Water Commission, United States and Mexico, of a sanitation project for the cities of Calexico, California, and Mexicali, Lower California, Mexico, which agreement shall contain such provisions relating to a division between the two Governments of the cost of such construction and operation and maintenance, or of the work involved therein, as may be recommended by the said Commission and approved by the Government of Mexico and by the Secretary of State on behalf of the Government of

the United States: *Provided*, That no such agreement shall be entered into until the governing body of the city of Calexico, California, has given assurances satisfactory to the Secretary of State that, so long as such agreement remains in force, the city of Calexico will contribute an equitable proportion as determined by the United States Section of said Commission, subject to the approval of the Secretary of State, of the costs of such construction, operation, and maintenance allocated to the United States.

(Sept. 13, 1950, ch. 948, title III, §301, 64 Stat. 848.)

§277d–9. Authorization for appropriations; availability of prior appropriations; use of moneys received

There is authorized to be appropriated to the United States section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to defray such costs as may accrue to the United States arising out of any such agreement for the construction, operation, and maintenance of such project: *Provided*, That funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico", shall be available for expenditure for the purposes of this section and section 277d–8 of this title: *Provided further*, That any moneys received from the United Mexican States under the terms of any such agreement shall be available for expenditure in connection with any appropriation which may be available or which may be made available for the purposes of said sections: *And provided further*, That moneys received from the city of Calexico, California, pursuant to the provisions of said sections, shall be available for expenditure in connection with any appropriations which may be available or which may be made available for the purposes of said sections.

(Sept. 13, 1950, ch. 948, title III, §302, 64 Stat. 849.)

§277d–10. Nogales Sanitation Project; operation by Commission; division of costs; contribution by Nogales, Arizona

The Secretary of State is authorized, notwithstanding any other provision of law and subject to the conditions provided in this section and section 277d–11 of this title, to enter into an agreement with the appropriate official or officials of the United Mexican States for the operation and maintenance by the International Boundary and Water Commission, United States and Mexico, of the Nogales sanitation project, located at Nogales, Arizona, and Nogales, Sonora, Mexico, heretofore constructed by the said Commission, which agreement shall contain such provisions relating to a division between the two Governments of the costs of such operation and maintenance, or of the work involved therein, as may be recommended by said Commission and approved by the Government of Mexico and by the Secretary of State on behalf of the Government of the United States: *Provided*, That no such agreement shall be entered into until the governing body of the city of Nogales, Arizona, has given assurances satisfactory to the Secretary of State that it will, so long as such agreement remains in force, contribute an equitable proportion, as determined by the United States section of said Commission, subject to the approval of the Secretary of State, of the costs of such operation and maintenance allocated to the United States.

(July 27, 1953, ch. 242, §1, 67 Stat. 195.)

§277d–11. Authorization of appropriations; availability of prior appropriations; use of moneys received

There is authorized to be appropriated to the United States section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to defray such costs as may accrue to the United States arising out of any such agreement for the operation and maintenance of such project: *Provided*, That funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico", shall be available for expenditure for the purposes of this section and section 277d–10 of this title: *Provided further*, That any moneys received from the United Mexican States under the terms of any such agreement shall be available for expenditure in connection with any appropriations which may be available or which may be made for the purposes of said sections: *And provided further*, That moneys received from the city of Nogales, Arizona, pursuant to the provisions of said sections shall be available for expenditure in connection with any appropriations which may be available or which may be made available for the purposes of said sections.

(July 27, 1953, ch. 242, §2, 67 Stat. 195.)

§277d–12. Expenditures for flood fighting, rescue operations, repairs or restoration of flood control or sanitation works threatened or destroyed by floodwaters of Rio Grande, Colorado, or Tijuana Rivers

On and after June 20, 1956, in addition to the funds available under the appropriation "Rio Grande emergency flood protection", the United States Commissioner is authorized to expend from any appropriation available to the International Boundary and Water Commission, United States and Mexico, American Section, such sums as may be necessary for prosecution of emergency flood fighting and rescue operations, repairs or restoration of any flood control or sanitation works threatened or destroyed by floodwaters of the Rio Grande, the Colorado or Tijuana Rivers, or other streams running across or near the boundary, and for taking emergency actions, consistent with the emergency provisions of the Safe Drinking Water Act [42 U.S.C. 300f et seq.], to protect against health threatening surface and ground water pollution problems along the United States-Mexico boundary.

(June 20, 1956, ch. 414, title I, 70 Stat. 302; Pub. L. 101–246, title IV, §412(a), Feb. 16, 1990, 104 Stat. 69; Pub. L. 103–236, title IV, §423(b), Apr. 30, 1994, 108 Stat. 457.)

REFERENCES IN TEXT

The Safe Drinking Water Act, referred to in text, is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93–523, §2(a), 88 Stat. 1660, as amended, which is classified generally to subchapter XII (§300f et seq.) of chapter 6A 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 201 of Title 42 and Tables.

AMENDMENTS

1994—Pub. L. 103–236 substituted "Tijuana Rivers, or other streams running across or near the boundary, and for taking emergency actions, consistent with the emergency provisions of the Safe Drinking Water Act, to protect against health threatening surface and ground water pollution problems along the United States-Mexico boundary" for "Tijuana Rivers, and for taking emergency actions to protect against health threatening sanitation problems by repairing or replacing existing capital infrastructure along the United States-Mexico Boundary".

1990—Pub. L. 101–246 inserted "or sanitation" after "flood control" and inserted before period at end ", the Colorado or Tijuana Rivers, and for taking emergency actions to protect against health threatening sanitation problems by repairing or replacing existing capital infrastructure along the United States-Mexico Boundary".

§277d–13. Authorization for international storage dam on the Rio Grande

The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is hereby authorized to conclude with the appropriate official or officials of the Government of Mexico an agreement for the joint construction, operation, and maintenance by the United States and Mexico, in accordance with the provisions of the treaty of February 3, 1944, with Mexico, of a major international storage dam on the Rio Grande at the site and having substantially the characteristics described in minute numbered 207 adopted June 19, 1958, by the said Commission, and in the "Rio Grande International Storage Dams Project—Report on Proposed Dam and Reservoir" prepared by the United States Section of the said Commission and dated September 1958.

(Pub. L. 86–605, §1, July 7, 1960, 74 Stat. 360.)

§277d–14. Construction, operation, and maintenance on self-liquidating basis of facilities for generating hydroelectric energy

If agreement is concluded pursuant to section 277d–13 of this title for the construction of a major international storage dam the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to conclude with the appropriate official or officials of Mexico an agreement consistent with article 7 of the treaty of February 3, 1944, for the construction, operation, and maintenance on a self-liquidating basis, for the United States share, of facilities for generating hydroelectric energy at said dam.

If agreement for the construction of separate facilities for generating hydroelectric energy is concluded, the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is directed to construct, operate, and maintain such self-liquidating facilities for the United States.

(Pub. L. 86–605, §2, July 7, 1960, 74 Stat. 360.)

§277d–15. Integration of operation of dam with other United States water conservation activities

If a dam is constructed pursuant to an agreement concluded under the authorization granted by section 277d–13 of this title, its operation for conservation and release of United States share of waters shall be integrated with other

United States water conservation activities on the Rio Grande below Fort Quitman, Texas, in such manner as to provide the maximum feasible amount of water for beneficial use in the United States with the understandings that (a) releases of United States share of waters from said dam for domestic, municipal, industrial, and irrigation uses in the United States shall be made pursuant to order by the appropriate authority or authorities of the State of Texas, and (b) the State of Texas having stipulated that the amount of water that will be available for use in the United States below Falcon Dam after the proposed dam is placed in operation will be not less than the amount available under existing conditions of river development, and to carry out such understandings and said stipulation the conservation storage of said dam shall be used, and it shall be the exclusive responsibility of the appropriate authority or authorities of said State to distribute available United States share of waters of the Rio Grande in such manner as will comply with said stipulation.

(Pub. L. 86–605, §3, July 7, 1960, 74 Stat. 360.)

§277d–16. Authorization of appropriations

There is hereby authorized to be appropriated to the Department of State for the use of the United States Section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to carry out the provisions of sections 277d–13 to 277d–16 of this title.

(Pub. L. 86–605, §4, July 7, 1960, 74 Stat. 361.)

§277d–17. Chamizal boundary settlement; investigations relating to river channel; acquisition of lands; relocation of facilities

In connection with the convention between the United States of America and the United Mexican States for the solution of the problem of the Chamizal, signed August 29, 1963, the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized—

a. to conduct technical and other investigations relating to: the demarcation or monumentation of the boundary between the United States and Mexico; flood control; water resources; sanitation and prevention of pollution; channel relocation, improvement, and stabilization; and other matters related to the new river channel.

b. to acquire by donation, purchase, or condemnation, all lands required—

(1) for transfer to Mexico as provided in said convention;

(2) for construction of that portion of the new river channel and the adjoining levee in the territory of the United States;

(3) for relocation of highways, roadways, railroads, telegraph, telephone, electric transmission lines, bridges, related facilities, and any publicly owned structure or facility, the relocation of which, in the judgment of the said Commissioner, is necessitated by the project.

c. For the purpose of effecting said relocations—

(1) to perform any or all work involved in said relocations;

(2) to enter into contracts with the owners of properties to be relocated whereby they undertake to acquire any or all properties needed for said relocations, or undertake to perform any or all work involved in said relocations;

(3) to convey or exchange properties acquired or improved by the United States under sections 277d–17 to 277d–25 of this title or under said convention, with or without improvements, or to grant term or perpetual easements therein or thereover.

(Pub. L. 88–300, §1, Apr. 29, 1964, 78 Stat. 184.)

CODIFICATION

Section is comprised of part of section 1 of Pub. L. 88–300. Remainder of section 1 is set out as a Short Title note below.

SHORT TITLE

Pub. L. 88–300, §1, Apr. 29, 1964, 78 Stat. 184, provided in part: "That this Act [enacting this section and sections 277d–18 to 277d–25 of this title] may be cited as the 'American-Mexican Chamizal Convention Act of 1964'."

§277d–18. Construction, operation, and maintenance of works; Bridge of the Americas

(a) In general

The United States Commissioner is authorized to construct, operate, and maintain all works provided for in said convention and sections 277d–17 to 277d–25 of this title, and to turn over the operation and maintenance of any such works to any Federal agency, or any State, county, municipality, district, or other political subdivision within which such project or works may be in whole or in part situated, upon such terms, conditions, and requirements as the Commissioner may deem appropriate.

(b) Bridge of the Americas

The United States Commissioner is authorized to receive payments of money from public or private sources in the United States or Mexico made for the purpose of sharing in the cost of operations, maintenance, and replacement of the Bridge of the Americas which crosses the Rio Grande between El Paso, Texas, and Cd. Juarez, Chihuahua. Notwithstanding any other provision of law, such payments of money shall be credited to any appropriation to the Commission which is currently available. Funds received under this subsection shall be available only for the replacement of such bridge.

(c) Advance appropriations

The authority of subsection (b) may be exercised only to the extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 88–300, §2, Apr. 29, 1964, 78 Stat. 184; Pub. L. 103–236, title IV, §423(a), Apr. 30, 1994, 108 Stat. 457; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §703], Nov. 29, 1999, 113 Stat. 1536, 1501A-460.)

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–113 inserted "operations, maintenance, and" after "cost of".

1994—Pub. L. 103–236 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

§277d–19. Compensation of owners and tenants to prevent economic injury; regulations

The United States Commissioner, under regulations approved by the Secretary of State, and upon application of the owners and tenants of lands to be acquired by the United States to fulfill and accomplish the purposes of said convention, and to the extent administratively determined by the Commissioner to be fair and reasonable, is authorized to—

- a. Reimburse the owners and tenants for expenses and other losses and damages incurred by them in the process and as a direct result of such moving of themselves, their families, and their possessions as is occasioned by said acquisition: *Provided*, That the total of such reimbursement to the owners and tenants of any parcel of land shall in no event exceed 25 per centum of its fair value, as determined by the Commissioner. No payment under this subsection shall be made unless application therefor is supported by an itemized and certified statement of the expenses, losses, and damages incurred.
- b. Compensate the said owners and tenants for identifiable, reasonable, and satisfactorily proved costs and losses to owners and tenants over and above those reimbursed under the foregoing subsection in the categories hereinafter provided, and for which purpose there shall be established by the Commissioner a board of examiners, consisting of such personnel employed and compensation fixed as he deems advisable, without regard to the provisions of the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5. Said board may hold hearings and shall examine submitted evidence and make determinations, subject to the Commissioner's approval, regarding all claims in said categories as follows:
 - (1) For properties—
 - (a) For nonconforming abodes and minimum forms of shelter for which there are no comparable properties on the market in the city of El Paso and concerning which fair market value would be inadequate to find minimum housing of equal utility, compensation to the owner up to an amount which when added to the market value allowed for his property, including land values, would enable purchase of minimum habitable housing of similar utility in another residential section of said city.
 - (b) For commercial properties for which there are no comparable properties on the market in or near El Paso, Texas, compensation to the owner up to an amount which, when added to the total fair market value, including the land value, would compensate the owner for the "value in use" of the real estate to him. Such "value in use" is to be determined on the basis of replacement cost less deterioration and obsolescence in existing real estate and taking into consideration factors bearing upon income attributable to the real estate.
 - (2) For loss in business:
 - (a) Loss of profits directly resulting from relocation, limited to the period between termination of business in the old location and commencement of business in the new, such period not to exceed thirty days.
 - (b) Loss to owner resulting from inability to rent to others housing or commercial space that can be reasonably related to uncertainties arising out of the pending acquisition of the owner's property by the United States, such losses limited to those incurred after July 18, 1963, and prior to the making by the United States of a firm offer to purchase.

(3) For penalty costs to property owners for prepayment of mortgages incident to acquisition of the properties by the United States.

(Pub. L. 88–300, §3, Apr. 29, 1964, 78 Stat. 184.)

CODIFICATION

In par. b., "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1949, as amended" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§277d–20. Limitation on application for reimbursement or compensation

Application for reimbursement or compensation under section 277d–19 of this title shall be submitted to the Commissioner within either one year from the date of acquisition or the date of vacating the premises by the applicant, whichever date is later. Applications not submitted within said period shall be forever barred.

(Pub. L. 88–300, §4, Apr. 29, 1964, 78 Stat. 185.)

§277d–21. Attorneys' fees; penalties

The Commissioner, in rendering an award in favor of any claimant under section 277d–19 of this title, may, as part of such award, determine and allow reasonable attorneys' fees which shall not exceed 10 per centum of the amount awarded, to be paid out of but not in addition to the amount of award, to the attorneys representing the claimant. Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed by the terms of this section, if award be made, shall be fined not more than \$2,000 or imprisoned not more than one year, or both.

(Pub. L. 88–300, §5, Apr. 29, 1964, 78 Stat. 185.)

§277d–22. Prohibition against duplicate payments; eligibility for payments unaffected by means employed for acquisition of property; rights and powers unaffected

Payments to be made as herein provided shall be in addition to, but not in duplication of, any payments that may otherwise be authorized by law. The means employed to acquire the property, whether by condemnation or otherwise, shall not affect eligibility for reimbursement or compensation under sections 277d–17 to 277d–25 of this title. Nothing contained in such sections shall be construed as creating any legal right or cause of action against the United States or as precluding the exercise by the Government of the right of eminent domain or any other right or power that it may have under such sections or any other law; nor shall such sections be construed as precluding an owner or tenant from asserting any rights he may have under other laws or the Constitution of the United States.

(Pub. L. 88–300, §6, Apr. 29, 1964, 78 Stat. 186.)

§277d–23. Taxation; exclusion from gross income

No amount received as an award under subsection a. and subsections b. (1) and (3) of section 277d–19 of this title shall be included in gross income for purposes of chapter 1 of title 26. However, amounts received under subsection b. (1) shall be included in gross income to the extent that such amounts are not used within one year of the receipt thereof to purchase replacement housing or facilities.

(Pub. L. 88–300, §7, Apr. 29, 1964, 78 Stat. 186; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095.)

AMENDMENTS

1986—Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

§277d–24. Definitions; exemption from administrative procedure provisions

As used in sections 277d–17 to 277d–25 of this title, the term "land" shall include interests in land, and the term "fair value" shall mean fair value of the interest acquired. The provisions of such sections shall be exempt from the

operations of subchapter II of chapter 5, and chapter 7, of title 5.
(Pub. L. 88–300, §8, Apr. 29, 1964, 78 Stat. 186.)

CODIFICATION

"Subchapter II of chapter 5, and chapter 7, of title 5" substituted in text for "the Administrative Procedure Act of June 11, 1946 (60 Stat. 237), as amended (5 U.S.C. 1001–1011)" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§277d–25. Authorization of appropriations

There are authorized to be appropriated to the Department of State for the use of the United States section of said Commission not to exceed \$44,900,000 to carry out the provisions of said convention and sections 277d–17 to 277d–25 of this title and for transfer to other Federal agencies to accomplish by them or other proper agency relocation of their facilities necessitated by the project. Of the appropriations authorized by this section, not to exceed \$4,200,000 may be used to carry out the provisions of section 277d–19 of this title. The provisions of section 277d–3 of this title are hereby expressly extended to apply to the carrying out of the provisions of said convention and sections 277d–17 to 277d–25 of this title.

(Pub. L. 88–300, §9, Apr. 29, 1964, 78 Stat. 186.)

§277d–26. Lower Colorado River emergency flood control works; agreements with Mexico for joint construction, operation and maintenance

The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to conclude, with the appropriate official or officials of the Government of Mexico, agreements for emergency flood control measures of international character in the reaches of the lower Colorado River between Imperial Dam and the Gulf of California, in both the United States and Mexico, such agreements to provide: (a) for the joint clearing and maintaining free of trees and brush the bed and banks of the channel; for removing sediment deposits from the river channel; and (b) for corrective actions to guard against sedimentation and consequent aggradation of the river channel incident to desilting operations at diversion dams in the two countries: *Provided*, That, prior approval of the Secretary of the Interior is required of any proposed agreement with Mexico under clause (b) of this section which would involve construction and/or operation of works on the Colorado River in the United States under the jurisdiction of the Secretary. The measures contemplated herein are for the purpose of controlling floods on the lower Colorado River in accordance with article 13 of the 1944 Water Treaty with Mexico, and accomplishment thereof by the International Boundary and Water Commission, United States Section, would be in accord with the Memorandum of Understanding "as to Functions and Jurisdiction of Agencies of the United States in Relation to the Colorado and Tijuana Rivers and the Rio Grande Below Fort Quitman, Texas, Under Water Treaty Signed at Washington, February 3, 1944," between the Department of State and the United States Section, International Boundary and Water Commission and the Department of the Interior dated February 14, 1945.

(Pub. L. 88–411, §1, Aug. 10, 1964, 78 Stat. 386.)

§277d–27. Execution of agreements

The United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to carry out those measures agreed upon for execution by the United States in the agreements concluded pursuant to section 277d–26 of this title.

(Pub. L. 88–411, §2, Aug. 10, 1964, 78 Stat. 386.)

§277d–28. Authorization of appropriations

There is authorized to be appropriated to the Department of State for use of the United States Section, International Boundary and Water Commission, United States and Mexico, not in excess of \$300,000 for the initial cost of the work authorized in sections 277d–26 to 277d–28 of this title, and not to exceed \$30,000 based on December 1975 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein, annually thereafter for necessary maintenance.

(Pub. L. 88–411, §3, Aug. 10, 1964, 78 Stat. 386; Pub. L. 93–126, §7(b), Oct. 18, 1973, 87 Stat. 452; Pub. L. 95–105, title V, §514(b), Aug. 17, 1977, 91 Stat. 862.)

AMENDMENTS

1977—Pub. L. 95–105 inserted "based on December 1975 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein," after "\$30,000".

1973—Pub. L. 93–126 substituted "\$30,000" for "\$20,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–105 effective Oct. 1, 1977, see section 514(d) of Pub. L. 95–105, set out as a note under section 277d–3 of this title.

§277d–29. Rio Grande canalization project; flood and sediment control; agreements authorized; control gates; costs; authorization of appropriations

For the purposes of facilitating and implementing operation and maintenance of the international Rio Grande canalization project, the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to enter into agreements with the appropriate official or officials of local organizations, as defined in the Watershed Protection and Flood Prevention Act of August 4, 1954, as amended [16 U.S.C. 1001 et seq.], for the maintenance by said local organizations either directly or indirectly through mutually satisfactory maintenance agreements with others, including the United States, of all those flood and arroyo sediment control dams, together with all related works, hereafter installed or constructed in the Rio Grande watershed between Caballo Dam and El Paso, Texas, in accordance with said Act, and which are necessary, in the opinion of Said Commissioner, to facilitate and implement the operation and maintenance of said project.

Such maintenance agreements between the local organization and the United States shall provide the extent of contribution by the United States as may be mutually agreed by the two parties, based on the degree of benefits to be derived from said dams and related works, and the contribution by the United States may be either in the form of funds or performance of the actual operation and maintenance.

Control gates shall not be installed on any of the dams which, in the opinion of the United States Commissioner, International Boundary and Water Commission, United States and Mexico, are necessary to facilitate and implement the operation and maintenance of the Rio Grande canalization project.

Arrangements made between the United States and the local organizations shall be satisfactory to the Secretary of Agriculture for defraying cost of maintaining such work of improvement in accordance with regulations prescribed by said Secretary.

There is hereby authorized to be appropriated not in excess of \$50,000 per annum for contributions to maintenance authorized by this section.

(Pub. L. 88–600, [Sept. 18, 1964](#), 78 Stat. 956; Pub. L. 93–126, [§7\(c\)](#), [Oct. 18, 1973](#), 87 Stat. 452.)

REFERENCES IN TEXT

The Watershed Protection and Flood Prevention Act of August 4, 1954, as amended, referred to in text, is act [Aug. 4, 1954](#), [ch. 656](#), 68 Stat. 666, which is classified principally to chapter 18 (§1001 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 16 and Tables.

AMENDMENTS

1973—Pub. L. 93–126 substituted "\$50,000" for "\$23,000".

§277d–30. Lower Rio Grande drainage conveyance canal projects; agreements with Mexico for construction, operation, and maintenance; division of costs; non-Federal assurances of one-half of Federal costs

The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized, notwithstanding any other provision of law and subject to the conditions provided in this section and section 277d–31 of this title to conclude an agreement or agreements with the appropriate official or officials of the Government of the United Mexican States for the construction, operation, and maintenance by the United Mexican States under the supervision of the International Boundary and Water Commission, United States and Mexico, of a drainage conveyance canal through Mexican territory for the discharge of waters of El Morillo and other drains in the United Mexican States into the Gulf of Mexico in the manner, and having substantially the characteristics, described in said Commission's minute numbered 223, dated November 30, 1965. The agreement or agreements shall provide that the cost of construction including costs of design and right-of-way and the costs of operation and maintenance, shall be equally divided between the United Mexican States and the United

States. Before concluding the agreement or agreements, the Secretary of State shall receive satisfactory assurances from private citizens or a responsible local group that they or it will pay to the United States Treasury one-half of the actual United States costs of such construction, including costs of design and right-of-way, and one-half of the actual costs of operation and maintenance allocated under such agreement or agreements to the United States. Payments to the United States Treasury under this section shall be covered into the Treasury as miscellaneous receipts.

(Pub. L. 89-584, §1, Sept. 19, 1966, 80 Stat. 808.)

§277d-31. Authorization of appropriations

To defray costs that accrue to the United States under the agreement or agreements referred to in section 277d-30 of this title for the construction, operation, and maintenance of drainage conveyance canal projects, there are authorized to be appropriated to the Department of State for use of the United States Section, International Boundary and Water Commission, United States and Mexico, the following amounts:

(1) Not to exceed \$690,000 for costs of construction.

(2) Upon completion of construction, not to exceed \$25,000 based on estimated calendar year 1976 costs, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein, annually for costs of operation and maintenance.

(Pub. L. 89-584, §2, Sept. 19, 1966, 80 Stat. 808; Pub. L. 93-126, §7(a), Oct. 18, 1973, 87 Stat. 452; Pub. L. 95-105, title V, §514(a), Aug. 17, 1977, 91 Stat. 862.)

AMENDMENTS

1977—Par. (2). Pub. L. 95-105 inserted "based on estimated calendar year 1976 costs, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein," after "\$25,000".

1973—Par. (2). Pub. L. 93-126 substituted "\$25,000" for "\$20,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-105 effective Oct. 1, 1977, see section 514(d) of Pub. L. 95-105, set out as a note under section 277d-3 of this title.

§277d-32. Tijuana River flood control project; agreement with Mexico for joint construction, operation and maintenance

The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is hereby authorized to conclude with the appropriate official or officials of the Government of Mexico an agreement for the joint construction, operation, and maintenance by the United States and Mexico, in accordance with the provisions of the treaty of February 3, 1944, with Mexico, of an international flood control project for the Tijuana River, which shall be located and have substantially the characteristics described in "Report on an International Flood Control Project, Tijuana River Basin", prepared by the United States Section, International Boundary and Water Commission, United States and Mexico.

(Pub. L. 89-640, §1, Oct. 10, 1966, 80 Stat. 884.)

§277d-33. Authorization; construction, operation, and maintenance, appropriations, and acquisition of land

Pursuant to the agreement concluded under the authority of section 277d-32 of this title, the United States Commissioner is authorized to construct, operate, and maintain the portion of the "International Flood Control Project, Tijuana River Basin," assigned to the United States, and there is hereby authorized to be appropriated to the Department of State for use of the United States section the sum of \$10,800,000 for construction costs of such project, as modified, based on estimated June 1976 prices, plus or minus such amounts as may be justified by reason of price index fluctuations in costs involved therein, and such sums as may be necessary for its maintenance and operation, except that no funds may be appropriated under sections 277d-32 and 277d-33 of this title for the fiscal year ending on September 30, 1977. Contingent upon the furnishing by the city of San Diego of its appropriate share of the funds for the acquisition of the land and interests therein needed to carry out the agreement between the United States and Mexico to construct such project, the Secretary of State, acting through the United States Commissioner, is further authorized to participate financially with non-Federal interests in the acquisition of said lands and interest therein, to the extent that funds provided by the city of San Diego are insufficient for this purpose.

(Pub. L. 89-640, §2, Oct. 10, 1966, 80 Stat. 884; Pub. L. 94-425, Sept. 28, 1976, 90 Stat. 1333.)

AMENDMENTS

1976—Pub. L. 94–425 substituted provisions authorizing appropriations of \$10,800,000 for construction costs for project based on June 1976 prices, with exception that no funds may be appropriated for fiscal year ending Sept. 30, 1977 for provisions authorizing appropriations not to exceed \$12,600,000 for construction costs for project, eliminated provision requiring approval of title by Attorney General, and inserted provision authorizing financial participation of Secretary of State through Commissioner to acquire land for construction of project contingent upon city of San Diego furnishing its appropriate share of funds.

§277d–34. American-Mexican Boundary Treaty, authorization for carrying out treaty provisions; investigations; land acquisition, purposes; damages, repair or compensation

In connection with the treaty between the United States of America and the United Mexican States to resolve pending boundary differences and maintain the Rio Grande and the Colorado River as the international boundary between the United States of America and the United Mexican States, signed November 23, 1970, (hereafter in this Act referred to as the "treaty"), the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States, and Mexico (hereafter in this Act referred to as the "Commissioner"), is authorized—

(1) to conduct technical and other investigations relating to—

(A) the demarcation, mapping, monumentation, channel relocation, rectification, improvement, stabilization, and other matters relating to the preservation of the river boundaries between the United States and Mexico;

(B) the establishment and delimitation of the maritime boundaries in the Gulf of Mexico and in the Pacific Ocean;

(C) water resources; and

(D) the sanitation and the prevention of pollution;

(2) to acquire by donation, purchase, or condemnation, all lands or interests in lands required—

(A) for transfer to Mexico as provided in the treaty;

(B) for construction of that portion of new river channels and the adjoining levees in the territory of the United States;

(C) to preserve the Rio Grande and the Colorado River as the boundary by preventing the construction of works which may cause deflection or obstruction of the normal flow of the rivers or of their floodflows; and

(D) for relocation of any structure or facility, public or private, the relocation of which, in the judgment of the Commissioner, is necessitated by the project; and

(3) to remove, modify, or repair the damages caused to Mexico by works constructed in the United States which the International Boundary and Water Commission, United States and Mexico, as determined have an adverse effect on Mexico, or to compensate Mexico for such damages.

(Pub. L. 92–549, title I, §101, Oct. 25, 1972, 86 Stat. 1161.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 92–549, [Oct. 25, 1972](#), 86 Stat. 1161, which enacted sections 277d–34 to 277d–42 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 below and Tables.

SHORT TITLE

Pub. L. 92–549, [§1, Oct. 25, 1972](#), 86 Stat. 1161, provided: "That this Act [enacting this section and sections 277d–35 to 277d–42 of this title and amending section 1322 of Title 19, Customs Duties] may be cited as the 'American-Mexican Boundary Treaty Act of 1972'."

§277d–35. Construction, operation, and maintenance of works; property relocation, contracts; transfer of authority

The Commissioner is authorized—

(1) to construct, operate, and maintain all works provided for in the treaty and title I of this Act;

(2) to enter into contracts with the owners of properties to be relocated whereby such owners undertake to perform, at the expense of the United States, any or all operations involved in such relocations; and

(3) to turn over the operation and maintenance of any works referred to in paragraph (1) of this section to any Federal agency, or any State, county, municipality, district, or other political subdivision within which such works may be situated, in whole or in part, upon such terms, conditions, and requirements as the Commissioner may deem appropriate.

(Pub. L. 92–549, title I, §102, Oct. 25, 1972, 86 Stat. 1161.)

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–36. Sale of excess land

Notwithstanding any other provision of law, the Commissioner is authorized to dispose of by warranty deed, or otherwise, any land acquired by him on behalf of the United States, or obtained by the United States pursuant to treaty between the United States and Mexico, and not required for project purposes, under procedures to be formulated by the Commissioner, to adjoining landowners at such price as he considers fair and equitable, and, if not so disposed of, to turn such land over to the General Services Administration for disposal under the provisions of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(Pub. L. 92–549, title I, §103, Oct. 25, 1972, 86 Stat. 1162.)

CODIFICATION

In text, "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949" 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.

§277d–37. Channel shifts; boundary determination

When a determination must be made under the treaty whether to permit a new channel to become the boundary, or whether or not to restore a river to its former channel, or whether, instead of restoration, the Governments should undertake a rectification of the river channel, the Commissioner's decision, approved by the Secretary of State shall be final so far as the United States is concerned, and the Commissioner is authorized to construct or arrange for the construction of such works as may be required to give effect to that decision.

(Pub. L. 92–549, title I, §104, Oct. 25, 1972, 86 Stat. 1162.)

§277d–38. Acquired land, addition to State; State jurisdiction

Land acquired or to be acquired by the United States of America in accordance with the provisions of the treaty, including the tract provided for in section 277d–39 of this title, shall become a geographical part of the State to which it attaches and shall be under the civil and criminal jurisdiction of such State, without affecting the ownership of such land. The addition of land and the ceding of jurisdiction to a State shall take effect upon acceptance by such State.

(Pub. L. 92–549, title I, §105, Oct. 25, 1972, 86 Stat. 1162.)

§277d–39. Hidalgo-Reynosa lands; administration; part of national wildlife refuge system

Upon transfer of sovereignty from Mexico to the United States of the 481.68 acres of land acquired by the United States from Mexico near Hidalgo-Reynosa, administration over the portion of that land which is determined by the 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 Commission 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) 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 additional 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) 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), additional sewage treatment capacity that provides for advanced primary and secondary treatment of sewage described in subsection (a)(1)(B) 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 payment of any cancellation fees if the Commission cancels the contract.

(K) The owner of the Mexican facility may purchase insurance or other financial instrument to cover the risk of cancellation of the contract by the Commission. Any such insurance or other financial instrument shall not be provided or guaranteed by the United States Government, and the Government may reserve the right to validate independently the reasonableness of the premium when negotiating the annual service fee with the owner.

(L) Transfer of ownership of the Mexican facility to an appropriate governmental entity, other than the United States, if the Commission cancels the contract.

(M) Transfer of ownership of the Mexican facility to an appropriate governmental entity, other than the United States, if the owner of the Mexican facility fails to perform under the contract.

(N) The use of competitive procedures under applicable law, consistent with division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, by the owner of the Mexican facility in the procurement of property or services for the engineering, construction, and operation and maintenance of the Mexican facility.

(O) An opportunity for the Commission to review and approve the selection of contractors providing engineering, construction, and operation and maintenance for the Mexican facility.

(P) The maintenance by the owner of the Mexican facility of all records (including books, documents, papers, reports, and other materials) necessary to demonstrate compliance with the terms of this section and the contract.

(Q) Access by the Inspector General of the Department of State or the designee of the Inspector General for audit and examination of all records maintained pursuant to subparagraph (N) ¹ to facilitate the monitoring and evaluation required under subsection (d).

(R) Offsets or credits against the payments to be made by the Commission under this section to reflect an agreed upon percentage of payments that the owner of the Mexican facility receives through the sale of water treated by the facility.

(d) Implementation

(1) In general

The Inspector General of the Department of State shall monitor the implementation of any contract entered into under this section and evaluate the extent to which the owner of the Mexican facility has met the terms of this section and fulfilled the terms of the contract.

(2) Report

The Inspector General shall transmit to Congress a report containing the evaluation under paragraph (1) not later than 2 years after the execution of any contract with the owner of the Mexican facility under this section, 3 years thereafter, and periodically after the second report under this paragraph.

(Pub. L. 106–457, title VIII, §804, Nov. 7, 2000, 114 Stat. 1978; Pub. L. 108–425, §1, Nov. 30, 2004, 118 Stat. 2420.)

REFERENCES IN TEXT

Section 510(b)(2) of the Water Quality Act of 1987, referred to in subsec. (a)(1), is section 510(b)(2) of Pub. L. 100–4, title V, Feb. 4, 1987, 101 Stat. 81, which is not classified to the Code.

Subparagraph (N) of subsec. (c)(2) of this section, referred to in subsec. (c)(2)(Q), was redesignated as subparagraph (P) by Pub. L. 108–425, §1(b)(3), Nov. 30, 2004, 118 Stat. 2420.

CODIFICATION

In subsec. (c)(2)(N), "division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

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.

¹ See *References in Text note below*.

§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 November 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.

§277f. Valley Gravity Canal and Storage Project

The Secretary of State, with the approval of the President, shall designate the features of the Valley Gravity Canal and Storage Project which he deems international in character, and shall direct such changes in the general project plan as he deems advisable with respect to such features; and the features so designated shall be built, after consultation with the Bureau of Reclamation as to general design, by the American section of the International Boundary Commission, United States and Mexico, and shall be operated and maintained by said Commission insofar as their operation and maintenance in such manner is, in the opinion of the Secretary of State, necessary because of their international character. The construction, operation, and maintenance of such project shall be pursuant to the Federal reclamation laws, except as hereinbefore provided and except that—

(1) In addition to the nonreimbursable allocation to flood control or navigation which may be made by the Secretary of the Interior under section 485h(b) of title 43, the President, after consultation with the Secretary of State and the Secretary of the Interior, shall allocate such part of the total estimated cost of the project as he deems proper to the protection of American interests from drought hazards resulting from the uncontrolled and unregulated flow of the international portion of the Rio Grande below Old Fort Quitman, Texas. Provisions of law applicable with respect to allocations to flood control under section 485h(b) of title 43, shall, insofar as they are not inconsistent with the foregoing provisions, be applicable in like manner with respect to any allocation made under this subparagraph; and

(2) All revenues received by the United States in connection with the construction, operation, and maintenance of such projects shall be covered into the Treasury as miscellaneous receipts.

(June 28, 1941, ch. 259, 55 Stat. 338.)

CHANGE OF NAME

International Boundary Commission, United States and Mexico, American section, to which powers, duties, and functions of International Water Commission, United States and Mexico, American section, were transferred by act June 30, 1932, ch. 314, pt. II, title V, §510, 47 Stat. 417, reconstituted as International Boundary and Water Commission by Water Treaty of 1944.

§277g. Agreements to correct pollution of Rio Grande

(a) In general

The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico (hereafter in sections 277g to 277g–3 of this title referred to as the "Commissioner"), is authorized to conclude agreements with the appropriate representative of the Ministry of Foreign Relations of Mexico for the purpose of correcting the international problem of pollution of the Rio Grande caused by discharge of raw and inadequately treated sewage and other wastes into such river from the border cities including but not limited to Ciudad Acuna, Nuevo Laredo, and Reynosa, Mexico, and Del Rio, Laredo, and Hidalgo, Texas.

(b) Content of agreements

Agreements concluded under subsection (a) should consist of recommendations to the Governments of the United States and Mexico of measures to protect the health and welfare of persons along the Rio Grande from the effects of pollution, including—

(1) facilities that should be constructed, operated, and maintained in each country;

(2) estimates of the cost of plans, construction, operation, and maintenance of the facilities referred to in paragraph (1);

(3) formulas for the initial division between the United States and Mexico of the cost of plans, constructions, operation, and maintenance of the facilities referred to in paragraph (1);

(4) a method for review and adjustment of the formulas referred to in paragraph (3) at intervals of five years which recognizes that such initial formulas should not be used as a precedent in their subsequent review and adjustment; and

(5) dates for the beginning and completion of construction of the facilities referred to in paragraph (1).

(Pub. L. 100–465, §2, Oct. 3, 1988, 102 Stat. 2272.)

SHORT TITLE

Pub. L. 100–465, §1, Oct. 3, 1988, 102 Stat. 2272, provided that: "This Act [enacting this section and sections 277g–1 to 277g–3 of this title] may be cited as the 'Rio Grande Pollution Correction Act of 1987'."

§277g–1. Authority of Secretary of State to plan, construct, operate, and maintain facilities

The Secretary of State, acting through the Commissioner, is authorized to act jointly with the appropriate representative of the Government of Mexico and to—

- (1) supervise the planning of, and
- (2) supervise construction, operation, and maintenance of,

the facilities recommended in agreements concluded pursuant to section 277g of this title and approved by the Governments of the United States and Mexico.

(Pub. L. 100–465, §3, Oct. 3, 1988, 102 Stat. 2272.)

§277g–2. Consultation with Administrator of Environmental Protection Agency and other authorities

The Secretary of State shall consult with the Administrator of the Environmental Protection Agency and other concerned Federal, State, and local government officials in implementing sections 277g to 277g–3 of this title.

(Pub. L. 100–465, §4, Oct. 3, 1988, 102 Stat. 2273.)

§277g–3. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary for the United States to fund its share of the cost of the plans, construction, operation, and maintenance of the facilities recommended in agreements concluded pursuant to section 277g of this title and approved by the Governments of the United States and Mexico.

(Pub. L. 100–465, §5, Oct. 3, 1988, 102 Stat. 2273.)

§277h. Authority of the International Boundary and Water Commission to assist State and local governments

(a) Authority

The Commissioner of the United States section of the International Boundary and Water Commission may provide technical tests, evaluations, information, surveys, or others ¹ similar services to State or local governments upon the request of such State or local government on a reimbursable basis.

(b) Reimbursements

Reimbursements shall be paid in advance of the goods or services ordered and shall be for the estimated or actual cost as determined by the United States section of the International Boundary and Water Commission. Proper adjustment of amounts paid in advance shall be made as determined by the United States section of the International Boundary and Water Commission on the basis of the actual cost of goods or services provided. Reimbursements received by the United States section of the International Boundary and Water Commission for providing services under this section shall be credited to the appropriation from which the cost of providing the services is charged.

(Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §702], Nov. 29, 1999, 113 Stat. 1536, 1501A-459.)

¹ *So in original. Probably should be "other".*

§277i. Report on water sharing

Not later than 120 days after February 7, 2014, and annually thereafter, the Secretary of State shall submit to Congress a report on efforts by Mexico to meet its treaty deliveries of water to the Rio Grande in accordance with the Treaty between the United States and Mexico Respecting Utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande (done at Washington, February 3, 1944).

(Pub. L. 113–79, title XII, §12310, Feb. 7, 2014, 128 Stat. 991.)