

Public Law 108-425
108th Congress

An Act

Nov. 30, 2004
[H.R. 4794]

To amend the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 to extend the authorization of appropriations, and for other purposes.

Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACTIONS TO BE TAKEN.

(a) **SECONDARY TREATMENT.**—Section 804(a)(1) of the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 (22 U.S.C. 277d-44(a)(1); 114 Stat. 1978) is amended by striking “Subject to” and all that follows through “of this Act,” and inserting “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,”.

(b) **CONTRACT.**—Section 804(c) of such Act is amended as follows:

(1) By striking paragraph (1) and inserting the following:

“(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) In paragraph (2)(I) by striking “, with such annual payment” and all that follows through the period at the end and inserting “, 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.”.

(3) In paragraph (2) by redesignating subparagraphs (J) through (P) as subparagraphs (L) through (R), respectively, and by inserting after subparagraph (I) the following:

“(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.”.

(4) By striking paragraphs (2)(L) and (2)(M) (as redesignated by paragraph (3) of this subsection) and inserting the following:

“(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.”

(5) In paragraph (2)(N) (as redesignated by paragraph (3) of this subsection) by inserting after “competitive procedures” the following: “under applicable law”.

SEC. 2. IMPLEMENTATION OF NEW TREATY MINUTE.

Section 805 of the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 (22 U.S.C. 277d-45; 114 Stat. 1980) is amended—

(1) in the section heading striking “NEGOTIATION OF”; and

(2) by adding at the end the following:

“(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 this title, in order that the other provisions of this title to address such pollution may be implemented as soon as possible.”

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 806 of the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 (22 U.S.C. 277d-46; 114 Stat. 1981)

is amended by striking “a total of \$156,000,000 for fiscal years 2001 through 2005” and inserting “such sums as may be necessary”.

Approved November 30, 2004.

LEGISLATIVE HISTORY—H.R. 4794:

HOUSE REPORTS: No. 108-688, Pt. 1 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 150 (2004):

Oct. 6, considered and passed House.

Nov. 16, considered and passed Senate.