

PUBLIC LAW 111-88—OCT. 30, 2009

INTERIOR DEPARTMENT AND FURTHER  
CONTINUING APPROPRIATIONS,  
FISCAL YEAR 2010

purposes delineated in the table titled “Incorporation of Congressionally Requested Projects” included in the joint explanatory statement of the managers accompanying this Act, except that such funding appropriated for land acquisition, construction, and capital improvement and maintenance may be reallocated to other projects in that table funded by the same appropriation account if such reallocation has been approved by the House and Senate Committees on Appropriations; and, such funding appropriated for “National Park Service—Historic Preservation Fund” for Save America’s Treasures grants may be reallocated to be used for competitive grants under the Save America’s Treasures program if such reallocation has been approved by the House and Senate Committees on Appropriations.

Federal Land Assistance, Management, and Enhancement Act of 2009. 43 USC 1701 note.

43 USC 1748a.

## TITLE V—FLAME ACT OF 2009

### SEC. 501. SHORT TITLE.

This title may be cited as the “Federal Land Assistance, Management, and Enhancement Act of 2009” or “FLAME Act of 2009”.

### SEC. 502. FLAME WILDFIRE SUPPRESSION RESERVE FUNDS.

(a) DEFINITIONS.—In this section:

(1) FEDERAL LAND.—The term “Federal land” means—

- (A) public land, as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702);
- (B) units of the National Park System;
- (C) refuges of the National Wildlife Refuge System;
- (D) land held in trust by the United States for the benefit of Indian tribes or members of an Indian tribe; and

(E) land in the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(2) FLAME FUND.—The term “FLAME Fund” means a FLAME Wildfire Suppression Reserve Fund established by subsection (b).

(3) RELEVANT CONGRESSIONAL COMMITTEES.—The term “relevant congressional committees” means the Committee on Appropriations, the Committee on Natural Resources, and the Committee on Agriculture of the House of Representatives and the Committee on Appropriations, the Committee on Energy and Natural Resources, and the Committee on Indian Affairs of the Senate.

(4) SECRETARY CONCERNED.—The term “Secretary concerned” means—

- (A) the Secretary of the Interior, with respect to—
  - (i) Federal land described in subparagraphs (A), (B), (C), and (D) of paragraph (1); and
  - (ii) the FLAME Fund established for the Department of the Interior; and
- (B) the Secretary of Agriculture, with respect to—
  - (i) National Forest System land; and
  - (ii) the FLAME Fund established for the Department of the Agriculture.

(b) ESTABLISHMENT OF FLAME FUNDS.—There is established in the Treasury of the United States the following accounts:

(1) The FLAME Wildfire Suppression Reserve Fund for the Department of the Interior.

(2) The FLAME Wildfire Suppression Reserve Fund for the Department of Agriculture.

(c) PURPOSE OF FLAME FUNDS.—The FLAME Funds shall be available to cover the costs of large or complex wildfire events and as a reserve when amounts provided for wildfire suppression and Federal emergency response in the Wildland Fire Management appropriation accounts are exhausted.

(d) FUNDING.—

(1) CREDITS TO FUNDS.—A FLAME Fund shall consist of the following:

(A) Such amounts as are appropriated to that FLAME Fund.

(B) Such amounts as are transferred to that FLAME Fund under paragraph (5).

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the FLAME Funds such amounts as are necessary to carry out this section.

(B) CONGRESSIONAL INTENT.—It is the intent of Congress that, for fiscal year 2011 and each fiscal year thereafter, the amounts requested by the President for a FLAME Fund should be not less than the amount estimated by the Secretary concerned as the amount necessary for that fiscal year for wildfire suppression activities of the Secretary that meet the criteria specified in subsection (e)(2)(B)(i).

(C) SENSE OF CONGRESS ON DESIGNATION OF FLAME FUND APPROPRIATIONS, SUPPLEMENTAL FUNDING REQUEST, AND SUPPLEMENT TO OTHER SUPPRESSION FUNDING.—It is the sense of Congress that for fiscal year 2011 and each fiscal year thereafter—

(i) amounts appropriated to a FLAME Fund in excess of the amount estimated by the Secretary concerned as the amount necessary for that fiscal year for wildfire suppression activities of the Secretary that meet the criteria specified in subsection (e)(2)(B)(i) should be designated as amounts necessary to meet emergency needs;

(ii) the Secretary concerned should promptly make a supplemental request for additional funds to replenish the FLAME Fund if the Secretary determines that the FLAME Fund will be exhausted within 30 days; and

(iii) funding made available through the FLAME Fund should be used to supplement the funding otherwise appropriated to the Secretary concerned for wildfire suppression and Federal emergency response in the Wildland Fire Management appropriation accounts.

(3) AVAILABILITY.—Amounts in a FLAME Fund shall remain available to the Secretary concerned until expended.

(4) NOTICE OF INSUFFICIENT FUNDS.—The Secretary concerned shall notify the relevant congressional committees if

the Secretary estimates that only 60 days worth of funds remain in the FLAME Fund administered by that Secretary.

(5) TRANSFER AUTHORITY.—If a FLAME Fund has insufficient funds, the Secretary concerned administering the other FLAME Fund may transfer amounts to the FLAME Fund with insufficient funds. Not more than \$100,000,000 may be transferred from a FLAME Fund during any fiscal year under this authority.

(e) USE OF FLAME FUND.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), amounts in a FLAME Fund shall be available to the Secretary concerned to transfer to the Wildland Fire Management appropriation account of that Secretary to pay the costs of wildfire suppression activities of that Secretary that are separate from amounts for wildfire suppression activities annually appropriated to that Secretary under the Wildland Fire Management appropriation account of that Secretary.

(2) DECLARATION REQUIRED.—

(A) IN GENERAL.—Amounts in a FLAME Fund shall be available for transfer under paragraph (1) only after that Secretary concerned issues a declaration that a wildfire suppression event is eligible for funding from the FLAME Fund.

(B) DECLARATION CRITERIA.—A declaration by the Secretary concerned under subparagraph (A) may be issued only if—

(i) in the case of an individual wildfire incident—

(I) the fire covers 300 or more acres; or

(II) the Secretary concerned determines that the fire has required an emergency Federal response based on the significant complexity, severity, or threat posed by the fire to human life, property, or resources; or

(ii) the cumulative costs of wildfire suppression and Federal emergency response activities for the Secretary concerned will exceed, within 30 days, all of the amounts previously appropriated (including amounts appropriated under an emergency designation, but excluding amounts appropriated to the FLAME Fund) to the Secretary concerned for wildfire suppression and Federal emergency response.

(3) STATE, PRIVATE, AND TRIBAL LAND.—Use of a FLAME Fund for emergency wildfire suppression activities on State land, private land, and tribal land shall be consistent with any existing agreements in which the Secretary concerned has agreed to assume responsibility for wildfire suppression activities on the land.

(f) TREATMENT OF ANTICIPATED AND PREDICTED ACTIVITIES.—

For fiscal year 2011 and subsequent fiscal years, the Secretary concerned shall request funds within the Wildland Fire Management appropriation account of that Secretary for regular wildfire suppression activities that do not meet the criteria specified in subsection (e)(2)(B)(i).

Deadline.

(g) PROHIBITION ON OTHER TRANSFERS.—The Secretary concerned may not transfer funds from non-fire accounts to the Wildland Fire Management appropriation account of that Secretary unless amounts in the FLAME Fund of that Secretary and any

amounts appropriated to that Secretary for the purpose of wildfire suppression will be exhausted within 30 days.

(h) ACCOUNTING AND REPORTS.—

(1) ACCOUNTING AND REPORTING REQUIREMENTS.—The Secretary concerned shall account and report on amounts transferred from the respective FLAME Fund in a manner that is consistent with existing National Fire Plan reporting procedures.

(2) ANNUAL REPORT.—The Secretary concerned shall submit to the relevant congressional committees and make available to the public an annual report that—

(A) describes the obligation and expenditure of amounts transferred from the FLAME Fund; and

(B) includes any recommendations that the Secretary concerned may have to improve the administrative control and oversight of the FLAME Fund.

(3) ESTIMATES OF WILDFIRE SUPPRESSION COSTS TO IMPROVE BUDGETING AND FUNDING.—

(A) IN GENERAL.—Consistent with the schedule provided in subparagraph (C), the Secretary concerned shall submit to the relevant congressional committees an estimate of anticipated wildfire suppression costs for the applicable fiscal year.

(B) INDEPENDENT REVIEW.—The methodology for developing the estimates under subparagraph (A) shall be subject to periodic independent review to ensure compliance with subparagraph (D).

(C) SCHEDULE.—The Secretary concerned shall submit an estimate under subparagraph (A) during—

(i) the first week of March of each year;

(ii) the first week of May of each year;

(iii) the first week of July of each year; and

(iv) if a bill making appropriations for the Department of the Interior and the Forest Service for the following fiscal year has not been enacted by September 1, the first week of September of each year.

(D) REQUIREMENTS.—An estimate of anticipated wildfire suppression costs shall be developed using the best available—

(i) climate, weather, and other relevant data; and

(ii) models and other analytic tools.

(i) TERMINATION OF AUTHORITY.—The authority of the Secretary concerned to use the FLAME Fund established for that Secretary shall terminate at the end of the third fiscal year in which no appropriations to, or withdrawals from, that FLAME Fund have been made for a period of three consecutive fiscal years. Upon termination of such authority, any amounts remaining in the affected FLAME Fund shall be transferred to, and made a part of, the Wildland Fire Management appropriation account of the Secretary concerned for wildland suppression activities.

**SEC. 503. COHESIVE WILDFIRE MANAGEMENT STRATEGY.**

(a) STRATEGY REQUIRED.—Not later than one year after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture, acting jointly, shall submit to Congress a report that contains a cohesive wildfire management strategy, consistent with the recommendations described in recent reports

Estimate.  
Deadlines.

43 USC 1748b.

Deadline.  
Reports.