

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).

(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

Deadline.

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.

43 USC 1748b.

(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

Deadline.
Reports.

Estimate.
Deadlines.

of the Government Accountability Office regarding management strategies.

(b) **ELEMENTS OF STRATEGY.**—The strategy required by subsection (a) shall provide for—

(1) the identification of the most cost-effective means for allocating fire management budget resources;

(2) the reinvestment in non-fire programs by the Secretary of the Interior and the Secretary of Agriculture;

(3) employing the appropriate management response to wildfires;

(4) assessing the level of risk to communities;

(5) the allocation of hazardous fuels reduction funds based on the priority of hazardous fuels reduction projects;

(6) assessing the impacts of climate change on the frequency and severity of wildfire; and

(7) studying the effects of invasive species on wildfire risk.

Time period.

(c) **REVISION.**—At least once during each five-year period beginning on the date of the submission of the cohesive wildfire management strategy under subsection (a), the Secretary of the Interior and the Secretary of Agriculture shall revise the strategy to address any changes affecting the strategy, including changes with respect to landscape, vegetation, climate, and weather.

This division may be cited as the “Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010”.

DIVISION B—FURTHER CONTINUING APPROPRIATIONS, 2010

Ante, p. 2045.

SEC. 101. The Continuing Appropriations Resolution, 2010 (division B of Public Law 111-68) is amended by striking the date specified in section 106(3) and inserting “December 18, 2009”.

Applicability.
Ante, p. 2047.

SEC. 102. Section 129 of the Continuing Appropriations Resolution, 2010 (division B of Public Law 111-68) is amended by striking “2009” and inserting “2008”, and such amendment shall apply as if included in such public law on the date of its enactment.

26 USC 9503,
9504.

SEC. 103. Subsections (c)(1) and (e)(3) of section 9503, and subparagraphs (A), (B), and (C) of section 9504(b)(2), of the Internal Revenue Code of 1986 are each amended by inserting “the last amendment to” after “on the date of the enactment of”.

Ante, p. 2053.

SEC. 104. The Continuing Appropriations Resolution, 2010 (division B of Public Law 111-68) is amended by adding after section 164 the following new sections:

“**SEC. 165.** In addition to amounts provided in section 101, amounts are provided for ‘Small Business Administration—Business Loans Program Account’, for the cost (as defined in section 502 of the Congressional Budget Act of 1974) of guaranteed loans as authorized by section 7(a) of the Small Business Act, at a rate for operations of \$80,000,000.

“**SEC. 166. (a) LOAN LIMIT FLOOR BASED ON 2008 LEVELS.**—For mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2010, if the dollar amount limitation on the principal obligation of a mortgage determined under section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) for any size residence for any area is less than such dollar amount limitation that was in effect for such size residence for such area for 2008 pursuant to section 202 of the Economic Stimulus Act of 2008 (Public Law 110-185; 122 Stat. 620), notwithstanding any

other provision of law or of this joint resolution, the maximum dollar amount limitation on the principal obligation of a mortgage for such size residence for such area for purposes of such section 203(b)(2) shall be considered (except for purposes of section 255(g) of such Act (12 U.S.C. 1715z-20(g))) to be such dollar amount limitation in effect for such size residence for such area for 2008.

“(b) DISCRETIONARY AUTHORITY FOR SUB-AREAS.—Notwithstanding any other provision of law or of this joint resolution, if the Secretary of Housing and Urban Development determines, for any geographic area that is smaller than an area for which dollar amount limitations on the principal obligation of a mortgage are determined under section 203(b)(2) of the National Housing Act, that a higher such maximum dollar amount limitation is warranted for any particular size or sizes of residences in such sub-area by higher median home prices in such sub-area, the Secretary may, for mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2010, increase the maximum dollar amount limitation for such size or sizes of residences for such sub-area that is otherwise in effect (including pursuant to subsection (a) of this section), but in no case to an amount that exceeds the amount specified in section 202(a)(2) of the Economic Stimulus Act of 2008.

“SEC. 167. (a) LOAN LIMIT FLOOR BASED ON 2008 LEVELS.—For mortgages originated during calendar year 2010, if the limitation on the maximum original principal obligation of a mortgage that may be purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation determined under section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) or section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1754(a)(2)) respectively, for any size residence for any area is less than such maximum original principal obligation limitation that was in effect for such size residence for such area for 2008 pursuant to section 201 of the Economic Stimulus Act of 2008 (Public Law 110-185; 122 Stat. 619), notwithstanding any other provision of law or of this joint resolution, the limitation on the maximum original principal obligation of a mortgage for such Association and Corporation for such size residence for such area shall be such maximum limitation in effect for such size residence for such area for 2008.

“(b) DISCRETIONARY AUTHORITY FOR SUB-AREAS.—Notwithstanding any other provision of law or of this joint resolution, if the Director of the Federal Housing Finance Agency determines, for any geographic area that is smaller than an area for which limitations on the maximum original principal obligation of a mortgage are determined for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, that a higher such maximum original principal obligation limitation is warranted for any particular size or sizes of residences in such sub-area by higher median home prices in such sub-area, the Director may, for mortgages originated during calendar year 2010, increase the maximum original principal obligation limitation for such size or sizes of residences for such sub-area that is otherwise in effect (including pursuant to subsection (a) of this section) for such Association and Corporation, but in no case to an amount that exceeds the amount specified in the matter following the comma in section 201(a)(1)(B) of the Economic Stimulus Act of 2008.

"SEC. 168. Notwithstanding any other provision of this joint resolution, for mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2010, the second sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) shall be considered to require that in no case may the benefits of insurance under such section 255 exceed 150 percent of the maximum dollar amount in effect under the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)).

"SEC. 169. Notwithstanding any other provision of this joint resolution, other than section 106, up to \$200,000,000 of the funds provided by Public Law 111-8 that are available on October 1, 2009, in the 'Tenant-Based Rental Assistance' account may be available to adjust allocations for public housing agencies to prevent termination of assistance to families."

Approved October 30, 2009.

LEGISLATIVE HISTORY—H.R. 2996:

HOUSE REPORTS: Nos. 111-180 (Comm. on Appropriations) and 111-316 (Comm. of Conference).

SENATE REPORTS: No. 111-38 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 155 (2009):

June 25, 26, considered and passed House.

Sept. 17, 21-24, considered and passed Senate, amended.

Oct. 29, House and Senate agreed to conference report.

E