

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

CODIFICATION

In subsec. (b), “section 1110 of title 31” substituted for “section 607 of the Congressional Budget Act of 1974 [31 U.S.C. 11c]” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-333 substituted “October 1, 2002” for “October 1, 1978”.

§ 1748a. 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 1702 of this title;
- (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 1609(a) of title 16.

(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 regu-

lar 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 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 Sec-

retary 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.

(Pub. L. 111-88, div. A, title V, § 502, Oct. 30, 2009, 123 Stat. 2968.)

CODIFICATION

Section was enacted as part of the Federal Land Assistance, Management, and Enhancement Act of 2009, also known as the FLAME Act of 2009, and also as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

§ 1748b. Cohesive wildfire management strategy

(a) Strategy required

Not later than one year after October 30, 2009, 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 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.

(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.

(Pub. L. 111-88, div. A, title V, § 503, Oct. 30, 2009, 123 Stat. 2971.)

CODIFICATION

Section was enacted as part of the Federal Land Assistance, Management, and Enhancement Act of 2009, also known as the FLAME Act of 2009, and also as part of the Department of the Interior, Environment, and

Related Agencies Appropriations Act, 2010, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

SUBCHAPTER IV—RANGE MANAGEMENT

§ 1751. Grazing fees; feasibility study; contents; submission of report; annual distribution and use of range betterment funds; nature of distributions

(a) The Secretary of Agriculture and the Secretary of the Interior shall jointly cause to be conducted a study to determine the value of grazing on the lands under their jurisdiction in the eleven Western States with a view to establishing a fee to be charged for domestic livestock grazing on such lands which is equitable to the United States and to the holders of grazing permits and leases on such lands. In making such study, the Secretaries shall take into consideration the costs of production normally associated with domestic livestock grazing in the eleven Western States, differences in forage values, and such other factors as may relate to the reasonableness of such fees. The Secretaries shall report the result of such study to the Congress not later than one year from and after October 21, 1976, together with recommendations to implement a reasonable grazing fee schedule based upon such study. If the report required herein has not been submitted to the Congress within one year after October 21, 1976, the grazing fee charge then in effect shall not be altered and shall remain the same until such report has been submitted to the Congress. Neither Secretary shall increase the grazing fee in the 1977 grazing year.

(b)(1) Congress finds that a substantial amount of the Federal range lands is deteriorating in quality, and that installation of additional range improvements could arrest much of the continuing deterioration and could lead to substantial betterment of forage conditions with resulting benefits to wildlife, watershed protection, and livestock production. Congress therefore directs that 50 per centum or \$10,000,000 per annum, whichever is greater of all moneys received by the United States as fees for grazing domestic livestock on public lands (other than from ceded Indian lands) under the Taylor Grazing Act (48 Stat. 1269; 43 U.S.C. 315 et seq.) and the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181d), and on lands in National Forests in the sixteen contiguous Western States under the provisions of this section shall be credited to a separate account in the Treasury, one-half of which is authorized to be appropriated and made available for use in the district, region, or national forest from which such moneys were derived, as the respective Secretary may direct after consultation with district, regional, or national forest user representatives, for the purpose of on-the-ground range rehabilitation, protection, and improvements on such lands, and the remaining one-half shall be used for on-the-ground range rehabilitation, protection, and improvements as the Secretary concerned directs. Any funds so appropriated shall be in addition to any other appropriations made to the respective Secretary for planning and administration of the range betterment program and for other