

justified by the failure of anticipated mineral development or related revenues to materialize as expected when the loan was made pursuant to this section.

(9) Recipients of loans made pursuant to this section shall keep such records as the Secretary shall prescribe by regulation, including records which fully disclose the disposition of the proceeds of such assistance and such other records as the Secretary may require to facilitate an effective audit. The Secretary and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records.

(10) No person in the United States shall, on the grounds of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or part with funds made available under this section.

(11) All amounts collected in connection with loans made pursuant to this section, including interest payments or repayments of principal on loans, fees, and other moneys, derived in connection with this section, shall be deposited in the Treasury as miscellaneous receipts.

(Pub. L. 94-579, title III, §317(c), Oct. 21, 1976, 90 Stat. 2771; Pub. L. 95-352, §1(f), Aug. 20, 1978, 92 Stat. 515.)

#### REFERENCES IN TEXT

Act of February 25, 1920, as amended, referred to in par. (1), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

#### CODIFICATION

Section is comprised of subsec. (c) of section 317 of Pub. L. 94-579. Subsecs. (a) and (b) of section 317 of Pub. L. 94-579 are classified to section 191 of Title 30, Mineral Lands and Mining, and a note set out under that section; respectively.

#### AMENDMENTS

1978—Pars. (1) and (2). Pub. L. 95-352 redesignated par. (1) as pars. (1) and (2), in par. (1) struck out provisions establishing interest rate requirements, and in par. (2) struck out exception for Alaska and requirements for repayment. Former par. (2) redesignated (3).

Pars. (3) to (11). Pub. L. 95-352 redesignated former pars. (2) and (3) as (3) and (4), respectively, and added pars. (5) to (11).

### § 1748. Funding requirements

#### (a) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act, but no amounts shall be appropriated to carry out after October 1, 2002, any program, function, or activity of the Bureau under this or any other Act unless such sums are specifically authorized to be appropriated as of October 21, 1976 or are authorized to be appropriated in accordance with the provisions of subsection (b) of this section.

#### (b) Procedure applicable for authorization of appropriations

Consistent with section 1110 of title 31, beginning May 15, 1977, and not later than May 15 of

each second even numbered year thereafter, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a request for the authorization of appropriations for all programs, functions, and activities of the Bureau to be carried out during the four-fiscal-year period beginning on October 1 of the calendar year following the calendar year in which such request is submitted. The Secretary shall include in his request, in addition to the information contained in his budget request and justification statement to the Office of Management and Budget, the funding levels which he determines can be efficiently and effectively utilized in the execution of his responsibilities for each such program, function, or activity, notwithstanding any budget guidelines or limitations imposed by any official or agency of the executive branch.

#### (c) Distribution of receipts from Bureau from disposal of lands, etc.

Nothing in this section shall apply to the distribution of receipts of the Bureau from the disposal of lands, natural resources, and interests in lands in accordance with applicable law, nor to the use of contributed funds, private deposits for public survey work, and townsite trusteeships, nor to fund allocations from other Federal agencies, reimbursements from both Federal and non-Federal sources, and funds expended for emergency firefighting and rehabilitation.

#### (d) Purchase of certain public lands from Land and Water Conservation Fund

In exercising the authority to acquire by purchase granted by section 1715(a) of this title, the Secretary may use the Land and Water Conservation Fund to purchase lands which are necessary for proper management of public lands which are primarily of value for outdoor recreation purposes.

(Pub. L. 94-579, title III, §318, Oct. 21, 1976, 90 Stat. 2771; Pub. L. 104-333, div. I, title III, §310, Nov. 12, 1996, 110 Stat. 4139.)

#### 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 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 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 im-

prove 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.

(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.

**§ 1748a-1. Request for additional wildfire suppression funds**

If the amount provided for wildfire suppression operations for that fiscal year will be exhausted within 30 calendar days, the Secretary of the Interior or the Secretary of Agriculture (as applicable), in consultation with the Direc-