

113TH CONGRESS
2D SESSION

S. _____

To amend the FLAME Act of 2009 to provide for additional wildfire suppression activities, to provide for the conduct of certain forest treatment projects, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MCCAIN (for himself, Mr. BARRASSO, and Mr. FLAKE) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the FLAME Act of 2009 to provide for additional wildfire suppression activities, to provide for the conduct of certain forest treatment projects, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “FLAME Act Amendments Act of 2014”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FLAME ACT AMENDMENTS

- Sec. 101. Findings.
 Sec. 102. FLAME Act amendments.
 Sec. 103. Wildfire disaster funding authority.

TITLE II—FOREST TREATMENT PROJECTS

- Sec. 201. Definitions.
 Sec. 202. Projects in Forest Management Emphasis Areas..
 Sec. 203. Administrative review; arbitration.
 Sec. 204. Distribution of revenue.
 Sec. 205. Performance measures; reporting.
 Sec. 206. Termination.

TITLE III—FOREST STEWARDSHIP CONTRACTING

- Sec. 301. Cancellation ceilings.

1 **TITLE I—FLAME ACT**
 2 **AMENDMENTS**

3 **SEC. 101. FINDINGS.**

4 Congress finds that—

5 (1) over the past 2 decades, wildfires have in-
 6 creased dramatically in size and costs;

7 (2) existing budget mechanisms for estimating
 8 the costs of wildfire suppression are not keeping
 9 pace with the actual costs for wildfire suppression
 10 due in part to improper budget estimation method-
 11 ology;

12 (3) the FLAME Funds have not been adequate
 13 in supplementing wildland fire management funds in
 14 cases in which wildland fire management accounts
 15 are exhausted; and

16 (4) the practice of transferring funds from
 17 other agency funds (including the hazardous fuels

1 treatment accounts) by the Secretary of Agriculture
2 or the Secretary of the Interior to pay for wildfire
3 suppression activities, commonly known as “fire-bor-
4 rowing”, does not support the missions of the Forest
5 Service and the Department of the Interior with re-
6 spect to protecting human life and property from the
7 threat of wildfires.

8 **SEC. 102. FLAME ACT AMENDMENTS.**

9 (a) FUNDING.—Section 502(d) of the FLAME Act
10 of 2009 (43 U.S.C. 1748a(d)) is amended—

11 (1) in paragraph (1)—

12 (A) by striking “shall consist of” and all
13 that follows through “appropriated to” in sub-
14 paragraph (A) and inserting “shall consist of
15 such amounts as are appropriated to”; and

16 (B) by striking subparagraph (B); and

17 (2) by striking paragraphs (4) and (5).

18 (b) USE OF FLAME FUND.—Section 502(e) of the
19 FLAME Act of 2009 (43 U.S.C. 1748a(e)) is amended
20 by striking paragraphs (1) and (2) and inserting the fol-
21 lowing:

22 “(1) IN GENERAL.—Amounts appropriated to a
23 FLAME Fund, in accordance with section
24 251(b)(2)(E) of the Balanced Budget and Emer-
25 gency Deficit Control Act of 1985 (2 U.S.C.

1 902(b)(2)(E)), shall be available to the Secretary
2 concerned for wildfire suppression operations if the
3 Secretary concerned issues a declaration and notifies
4 the relevant congressional committees that a wildfire
5 suppression event is eligible for funding from the
6 FLAME Fund.

7 “(2) DECLARATION CRITERIA.—A declaration
8 by the Secretary concerned under paragraph (1)
9 may be issued only if—

10 “(A) an individual wildfire incident meets
11 the objective indicators of an extraordinary
12 wildfire situation, including—

13 “(i) a wildfire that the Secretary con-
14 cerned determines has required an emer-
15 gency Federal response based on the sig-
16 nificant complexity, severity, or threat
17 posed by the fire to human life, property,
18 or a resource;

19 “(ii) a wildfire that covers 1,000 or
20 more acres; or

21 “(iii) a wildfire that is within 10 miles
22 of an urbanized area (as defined in section
23 134(b) of title 23, United States Code); or

24 “(B) the cumulative costs of wildfire sup-
25 pression and Federal emergency response activi-

1 ties, as determined by the Secretary concerned,
2 would exceed, within 30 days, all of the
3 amounts otherwise previously appropriated (in-
4 cluding amounts appropriated under an emer-
5 gency designation, but excluding amounts ap-
6 propriated to the FLAME Fund) to the Sec-
7 retary concerned for wildfire suppression and
8 Federal emergency response.”.

9 (c) TREATMENT OF ANTICIPATED AND PREDICTED
10 ACTIVITIES.—Section 502(f) of the FLAME Act of 2009
11 (43 U.S.C. 1748a(f)) is amended by striking
12 “(e)(2)(B)(i)” and inserting “(e)(2)(A)”.

13 (d) PROHIBITION ON OTHER TRANSFERS.—Section
14 502 of the FLAME Act of 2009 (43 U.S.C. 1748a) is
15 amended by striking subsection (g) and inserting the fol-
16 lowing:

17 “(g) PROHIBITION ON OTHER TRANSFERS.—The
18 Secretary concerned shall not transfer funds provided for
19 activities other than wildfire suppression operations to pay
20 for any wildfire suppression operations.”.

21 (e) ACCOUNTING AND REPORTS.—Section 502(h) of
22 the FLAME Act of 2009 (43 U.S.C. 1748a(h)) is amend-
23 ed by striking paragraphs (2) and (3) and inserting the
24 following:

1 “(2) ESTIMATES OF WILDFIRE SUPPRESSION
2 OPERATIONS COSTS TO IMPROVE BUDGETING AND
3 FUNDING.—

4 “(A) BUDGET SUBMISSION.—Consistent
5 with section 1105(a) of title 31, United States
6 Code, the President shall include in each budget
7 for the Department of Agriculture and the De-
8 partment of the Interior information on esti-
9 mates of appropriations for wildfire suppression
10 costs based on an out-year forecast that uses a
11 statistically valid regression model.

12 “(B) REQUIREMENTS.—The estimate of
13 anticipated wildfire suppression costs under
14 subparagraph (A) shall be developed using the
15 best available—

16 “(i) climate, weather, and other rel-
17 evant data; and

18 “(ii) models and other analytic tools.

19 “(C) INDEPENDENT REVIEW.—The meth-
20 odology for developing the estimates of wildfire
21 suppression costs under subparagraph (A) shall
22 be subject to periodic independent review to en-
23 sure compliance with subparagraph (B).

24 “(D) SUBMISSION TO CONGRESS.—

1 “(i) IN GENERAL.—Consistent with
2 the schedule described in clause (ii) and in
3 accordance with subparagraphs (B) and
4 (C), the Secretary concerned shall submit
5 to the Committee on Energy and Natural
6 Resources of the Senate and the Com-
7 mittee on Natural Resources of the House
8 of Representatives an updated estimate of
9 wildfire suppression costs for the applica-
10 ble fiscal year.

11 “(ii) SCHEDULE.—The Secretary con-
12 cerned shall submit the updated estimates
13 under clause (i) during—

14 “(I) March of each year;

15 “(II) May of each year;

16 “(III) July of each year; and

17 “(IV) if a bill making appropria-
18 tions for the Department of the Inte-
19 rior and the Forest Service for the
20 following fiscal year has not been en-
21 acted by September 1, September of
22 each year.

23 “(3) REPORTS.—Annually, the Secretary of Ag-
24 riculture and the Secretary of the Interior shall
25 jointly submit to the Committee on Energy and Nat-

1 ural Resources of the Senate, the Committee on
2 Natural Resources of the House of Representatives,
3 and the Committees on Appropriations of the Senate
4 and the House of Representatives a report that—

5 “(A) provides a summary of the amount of
6 appropriations made available during the pre-
7 vious fiscal year, which specifies the source of
8 the amounts and the commitments and obliga-
9 tions made under this section;

10 “(B) describes the amounts obligated to in-
11 dividual wildfire events that meet the criteria
12 specified in subsection (e)(2); and

13 “(C) includes any recommendations that
14 the Secretary of Agriculture or the Secretary of
15 the Interior may have to improve the adminis-
16 trative control and oversight of the FLAME
17 Fund.”.

18 **SEC. 103. WILDFIRE DISASTER FUNDING AUTHORITY.**

19 (a) IN GENERAL.—Section 251(b)(2) of the Balanced
20 Budget and Emergency Deficit Control Act of 1985 (2
21 U.S.C. 901(b)(2)) is amended by adding at the end the
22 following:

23 “(E) FLAME WILDFIRE SUPPRESSION.—

1 the FLAME Act of 2009 (43 U.S.C.
2 1748a) have been expended.

3 “(II) The purposes described in this
4 subclause are—

5 “(aa) hazardous fuels reduction
6 projects and other activities of the
7 Secretary of the Interior, as author-
8 ized under the Healthy Forests Res-
9 toration Act of 2003 (16 U.S.C. 6501
10 et seq.) and the Tribal Forest Protec-
11 tion Act of 2004 (25 U.S.C. 3115a);
12 and

13 “(bb) forest restoration and fuel
14 reduction activities carried out outside
15 of the wildland urban interface that
16 are on condition class 3 Federal land
17 or condition class 2 Federal land lo-
18 cated within fire regime I, fire regime
19 II, or fire regime III.

20 “(ii) If the requirements under clause
21 (i)(I) are met for a fiscal year, the adjust-
22 ments for that fiscal year shall be the
23 amount of additional new budget authority
24 provided in the bill or joint resolution de-
25 scribed in clause (i)(I)(aa) for wildfire sup-

1 pression operations for that fiscal year, but
2 shall not exceed \$1,000,000,000 in addi-
3 tional new budget authority in each of fis-
4 cal years 2015 through 2021.

5 “(iii) As used in this subparagraph—

6 “(I) the term ‘additional new
7 budget authority’ means the amount
8 provided for a fiscal year in an appro-
9 priation Act and specified to pay for
10 the costs of wildfire suppression oper-
11 ations that is equal to the greater of
12 the amount in excess of—

13 “(aa) 100 percent of the av-
14 erage costs for wildfire suppres-
15 sion operations over the previous
16 5 years; or

17 “(bb) the estimated amount
18 of anticipated wildfire suppres-
19 sion costs at the upper bound of
20 the 90 percent confidence inter-
21 val for that fiscal year calculated
22 in accordance with section
23 502(h)(3) the FLAME Act of
24 2009 (43 U.S.C. 1748a(h)(3));
25 and

1 “(II) the term ‘wildfire suppres-
2 sion operations’ means the emergency
3 and unpredictable aspects of wildland
4 firefighting including support, re-
5 sponse, and emergency stabilization
6 activities; other emergency manage-
7 ment activities; and funds necessary
8 to repay any transfers needed for
9 these costs.

10 “(iv) The average costs for wildfire
11 suppression operations over the previous 5
12 years shall be calculated annually and re-
13 ported in the President’s Budget submis-
14 sion under section 1105(a) of title 31,
15 United States Code, for each fiscal year.”.

16 (b) DISASTER FUNDING.—Section 251(b)(2)(D) of
17 the Balanced Budget and Emergency Deficit Control Act
18 of 1985 (2 U.S.C. 901(b)(2)(D)) is amended—

19 (1) in clause (i)—

20 (A) in subclause (I), by striking “and” and
21 inserting “plus”;

22 (B) in subclause (II), by striking the pe-
23 riod and inserting “; less”; and

24 (C) by adding the following:

1 Forest System land identified as suitable for
2 timber production in a forest management plan
3 in effect on the date of enactment of this Act.

4 (B) EXCLUSIONS.—The term “Forest
5 Management Emphasis Area” does not include
6 National Forest System land—

7 (i) that is a component of the Na-
8 tional Wilderness Preservation System; or

9 (ii) on which removal of vegetation is
10 specifically prohibited by Federal law.

11 (3) NATIONAL FOREST MATERIAL.—The term
12 “national forest material” means trees, portions of
13 trees, or forest products, with an emphasis on
14 sawtimber and pulpwood, derived from National
15 Forest System land.

16 (4) NATIONAL FOREST SYSTEM.—

17 (A) IN GENERAL.—The term “National
18 Forest System” has the meaning given the term
19 in section 11(a) of the Forest and Rangeland
20 Renewable Resources Planning Act of 1974 (16
21 U.S.C. 1609(a)).

22 (B) EXCLUSION.—The term “National
23 Forest System” does not include—

24 (i) the national grasslands and land
25 utilization projects administered under title

1 III of the Bankhead-Jones Farm Tenant
2 Act (7 U.S.C. 1010 et seq.); or

3 (ii) National Forest System land east
4 of the 100th meridian.

5 (5) SECRETARY.—The term “Secretary” means
6 the Secretary of Agriculture.

7 **SEC. 202. PROJECTS IN FOREST MANAGEMENT EMPHASIS**
8 **AREAS..**

9 (a) CONDUCT OF COVERED PROJECTS WITHIN FOR-
10 EST MANAGEMENT EMPHASIS AREAS.—

11 (1) IN GENERAL.—The Secretary may conduct
12 covered projects in Forest Management Emphasis
13 Areas, subject to paragraphs (2) through (4).

14 (2) DESIGNATING TIMBER FOR CUTTING.—

15 (A) IN GENERAL.—Notwithstanding sec-
16 tion 14(g) of the National Forest Management
17 Act of 1976 (16 U.S.C. 472a(g)), the Secretary
18 may use designation by prescription or designa-
19 tion by description in conducting covered
20 projects under this title.

21 (B) REQUIREMENT.—The designation
22 methods authorized under subparagraph (A)
23 shall be used in a manner that ensures that the
24 quantity of national forest material that is re-

1 moved from the Forest Management Emphasis
2 Area is verifiable and accountable.

3 (3) CONTRACTING METHODS.—

4 (A) IN GENERAL.—Timber sale contracts
5 under section 14 of the National Forest Man-
6 agement Act of 1976 (16 U.S.C. 472a) shall be
7 the primary means of carrying out covered
8 projects under this title.

9 (B) RECORD.—If the Secretary does not
10 use a timber sale contract under section 14 of
11 the National Forest Management Act of 1976
12 (16 U.S.C. 472a) to carry out a covered project
13 under this title, the Secretary shall provide a
14 written record specifying the reasons that dif-
15 ferent contracting methods were used.

16 (4) ACREAGE TREATMENT REQUIREMENTS.—

17 (A) TOTAL ACREAGE REQUIREMENTS.—
18 The Secretary shall identify, prioritize, and
19 carry out covered projects in Forest Manage-
20 ment Emphasis Areas that mechanically treat a
21 total of at least 7,500,000 acres in the Forest
22 Management Emphasis Areas during the 15-
23 year period beginning on the date that is 60
24 days after the date on which the Secretary as-

1 signs the acreage treatment requirements under
2 subparagraph (B).

3 (B) ASSIGNMENT OF ACREAGE TREAT-
4 MENT REQUIREMENTS TO INDIVIDUAL UNITS
5 OF THE NATIONAL FOREST SYSTEM.—

6 (i) IN GENERAL.—Not later than 60
7 days after the date of enactment of this
8 Act and subject to clause (ii), the Sec-
9 retary, in the sole discretion of the Sec-
10 retary, shall assign the acreage treatment
11 requirements that shall apply to the Forest
12 Management Emphasis Areas of each unit
13 of the National Forest System.

14 (ii) LIMITATION.—Notwithstanding
15 clause (i), the acreage treatment require-
16 ments assigned to a specific unit of the
17 National Forest System under that clause
18 may not apply to more than 25 percent of
19 the acreage to be treated in any unit of the
20 National Forest System in a Forest Man-
21 agement Emphasis Area during the 15-
22 year period described in subparagraph (A).

23 (b) ENVIRONMENTAL ANALYSIS AND PUBLIC RE-
24 VIEW PROCESS FOR COVERED PROJECTS IN FOREST
25 MANAGEMENT EMPHASIS AREAS.—

1 (1) ENVIRONMENTAL ASSESSMENT.—The Sec-
2 retary shall comply with the National Environmental
3 Policy Act of 1969 (42 U.S.C. 4321 et seq.) by com-
4 pleting an environmental assessment that assesses
5 the direct environmental effects of each covered
6 project proposed to be conducted within a Forest
7 Management Emphasis Area, except that the Sec-
8 retary shall not be required to study, develop, or de-
9 scribe more than the proposed agency action and 1
10 alternative to the proposed agency action for pur-
11 poses of that Act.

12 (2) PUBLIC NOTICE AND COMMENT.—In pre-
13 paring an environmental assessment for a covered
14 project under paragraph (1), the Secretary shall pro-
15 vide—

16 (A) public notice of the covered project;

17 and

18 (B) an opportunity for public comment on
19 the covered project.

20 (3) LENGTH.—The environmental assessment
21 prepared for a covered project under paragraph (1)
22 shall not exceed 100 pages in length.

23 (4) INCLUSION OF CERTAIN DOCUMENTS.—The
24 Secretary may incorporate, by reference, into an en-
25 vironmental assessment any documents that the Sec-

1 retary, in the sole discretion of the Secretary, deter-
2 mines are relevant to the assessment of the environ-
3 mental effects of the covered project.

4 (5) DEADLINE FOR COMPLETION.—Not later
5 than 180 days after the date on which the Secretary
6 has published notice of a covered project in accord-
7 ance with paragraph (2), the Secretary shall com-
8 plete the environmental assessment for the covered
9 project.

10 (c) COMPLIANCE WITH ENDANGERED SPECIES
11 ACT.—To comply with the Endangered Species Act of
12 1973 (16 U.S.C. 1531 et seq.), the Secretary shall use
13 qualified professionals on the staff of the Forest Service
14 to make determinations required under section 7 of that
15 Act (16 U.S.C. 1536).

16 (d) LIMITATION ON REVISION OF NATIONAL FOREST
17 PLANS.—The Secretary may not, during a revision of a
18 forest plan under section 6 of the Forest and Rangeland
19 Renewable Resources Planning Act of 1974 (16 U.S.C.
20 1604), reduce the acres designated as suitable for timber
21 harvest under a covered project, unless the Secretary de-
22 termines, in consultation with the Secretary of the Inte-
23 rior, that the reduction in acreage is necessary to prevent
24 a jeopardy finding under section 7(b) of the Endangered
25 Species Act of 1973 (16 U.S.C. 1536(b)).

1 **SEC. 203. ADMINISTRATIVE REVIEW; ARBITRATION.**

2 (a) ADMINISTRATIVE REVIEW.—Administrative re-
3 view of a covered project shall occur only in accordance
4 with the special administrative review process established
5 by section 105 of the Healthy Forests Restoration Act of
6 2003 (16 U.S.C. 6515).

7 (b) ARBITRATION.—

8 (1) IN GENERAL.—There is established in the
9 Department of Agriculture a pilot program that—

10 (A) authorizes the use of arbitration in-
11 stead of judicial review of a decision made fol-
12 lowing the special administrative review process
13 for a covered project described in subsection
14 (a); and

15 (B) shall be the sole means to challenge a
16 covered project in a Forest Management Em-
17 phasis Area during the 15-year period begin-
18 ning on the date that is 60 days after the date
19 on which the Secretary assigns the acreage
20 treatment requirements under section
21 202(a)(4)(B).

22 (2) ARBITRATION PROCESS PROCEDURES.—

23 (A) IN GENERAL.—Any person who sought
24 administrative review for a covered project in
25 accordance with subsection (a) and who is not
26 satisfied with the decision made under the ad-

1 ministrative review process may file a demand
2 for arbitration in accordance with—

3 (i) chapter 1 of title 9, United States
4 Code; and

5 (ii) this paragraph.

6 (B) REQUIREMENTS FOR DEMAND.—A de-
7 mand for arbitration under subparagraph (A)
8 shall—

9 (i) be filed not more than 30 days
10 after the date on which the special admin-
11 istrative review decision is issued under
12 subsection (a); and

13 (ii) include a proposal containing the
14 modifications sought to the covered
15 project.

16 (C) INTERVENING PARTIES.—

17 (i) DEADLINE FOR SUBMISSION; RE-
18 QUIREMENTS.—Any person that submitted
19 a public comment on the covered project
20 subject to the demand for arbitration may
21 intervene in the arbitration under this sub-
22 section by submitting a proposal endorsing
23 or modifying the covered project by the
24 date that is 30 days after the date on

1 (bb) the covered project, as
2 approved by the Secretary.

3 (ii) SELECTION CRITERIA.—An arbi-
4 trator shall select the proposal that best
5 meets the purpose and needs described in
6 the environmental assessment conducted
7 under section 202(b)(1) for the covered
8 project.

9 (iii) EFFECT.—The decision of an ar-
10 bitrator with respect to a selection under
11 clause (i)(II)—

12 (I) shall not be considered a
13 major Federal action;

14 (II) shall be binding; and

15 (III) shall not be subject to judi-
16 cial review.

17 (F) DEADLINE FOR COMPLETION.—Not
18 later than 90 days after the date on which a de-
19 mand for arbitration is filed under subpara-
20 graph (A), the arbitration process shall be com-
21 pleted.

22 **SEC. 204. DISTRIBUTION OF REVENUE.**

23 (a) PAYMENTS TO COUNTIES.—

24 (1) IN GENERAL.—Effective for fiscal year
25 2015 and each fiscal year thereafter until the termi-

1 nation date under section 206, the Secretary shall
2 provide to each county in which a covered project is
3 carried out annual payments in an amount equal to
4 25 percent of the amounts received for the applica-
5 ble fiscal year by the Secretary from the covered
6 project.

7 (2) LIMITATION.—A payment made under para-
8 graph (1) shall be in addition to any payments the
9 county receives under the payment to States re-
10 quired by the sixth paragraph under the heading
11 “FOREST SERVICE” in the Act of May 23, 1908 (35
12 Stat. 260; 16 U.S.C. 500), and section 13 of the Act
13 of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

14 (b) DEPOSIT IN KNUTSON-VANDENBERG AND SAL-
15 VAGE SALE FUNDS.—After compliance with subsection
16 (a), the Secretary shall use amounts received by the Sec-
17 retary from covered projects during each of the fiscal
18 years during the period described in subsection (a) to
19 make deposits into the fund established under section 3
20 of the Act of June 9, 1930 (commonly known as the
21 “Knutson-Vandenberg Act”) (16 U.S.C. 576b) and the
22 fund established under section 14(h) of the National For-
23 est Management Act of 1976 (16 U.S.C. 472a(h)) in con-
24 tributions equal to the amounts otherwise collected under

1 those Acts for projects conducted on National Forest Sys-
2 tem land.

3 (c) DEPOSIT IN GENERAL FUND OF THE TREAS-
4 URY.—After compliance with subsections (a) and (b), the
5 Secretary shall deposit into the general fund of the Treas-
6 ury any remaining amounts received by the Secretary for
7 each of the fiscal years referred to in those subsections
8 from covered projects.

9 **SEC. 205. PERFORMANCE MEASURES; REPORTING.**

10 (a) PERFORMANCE MEASURES.—The Secretary shall
11 develop performance measures that evaluate the degree to
12 which the Secretary is achieving—

13 (1) the purposes of this title; and

14 (2) the minimum acreage requirements estab-
15 lished under section 202(a)(4).

16 (b) ANNUAL REPORTS.—Annually, the Secretary
17 shall submit to the Committee on Energy and Natural Re-
18 sources of the Senate and the Committee on Natural Re-
19 sources of the House of Representatives—

20 (1) a report that describes the results of evalua-
21 tions using the performance measures developed
22 under subsection (a); and

23 (2) a report that describes—

1 (A) the number and substance of the cov-
2 ered projects that are subject to administrative
3 review and arbitration under section 203; and

4 (B) the outcomes of the administrative re-
5 view and arbitration under that section.

6 **SEC. 206. TERMINATION.**

7 The authority of this title terminates on the date that
8 is 15 years after the date of enactment of this Act.

9 **TITLE III—FOREST**
10 **STEWARDSHIP CONTRACTING**

11 **SEC. 301. CANCELLATION CEILINGS.**

12 Section 604(d) of the Healthy Forests Restoration
13 Act of 2003 (16 U.S.C. 6591c(d)) is amended—

14 (1) by redesignating paragraphs (5), (6), and
15 (7) as paragraphs (6), (7), and (8), respectively; and

16 (2) by inserting after paragraph (4) the fol-
17 lowing:

18 “(5) CANCELLATION CEILINGS.—

19 “(A) IN GENERAL.—The Chief and the Di-
20 rector may obligate funds to cover any potential
21 cancellation or termination costs for an agree-
22 ment or contract under subsection (b) in stages
23 that are economically or programmatically via-
24 ble.

25 “(B) NOTICE.—

1 “(i) SUBMISSION TO CONGRESS.—Not
2 later than 30 days before entering into a
3 multiyear agreement or contract under
4 subsection (b) that includes a cancellation
5 ceiling in excess of \$25,000,000, but does
6 not include proposed funding for the costs
7 of cancelling the agreement or contract up
8 to the cancellation ceiling established in
9 the agreement or contract, the Chief and
10 the Director shall submit to the Committee
11 on Energy and Natural Resources of the
12 Senate and the Committee on Natural Re-
13 sources of the House of Representatives a
14 written notice that includes—

15 “(I)(aa) the cancellation ceiling
16 amounts proposed for each program
17 year in the agreement or contract;
18 and

19 “(bb) the reasons for the can-
20 cellation ceiling amounts proposed
21 under item (aa);

22 “(II) the extent to which the
23 costs of contract cancellation are not
24 included in the budget for the agree-
25 ment or contract; and

1 “(III) a financial risk assessment
2 of not including budgeting for the
3 costs of agreement or contract can-
4 cellation.

5 “(ii) TRANSMITTAL TO OMB.—At least
6 14 days before the date on which the Chief
7 and Director enter into an agreement or
8 contract under subsection (b), the Chief
9 and Director shall transmit to the Director
10 of the Office of Management and Budget
11 a copy of the written notice submitted
12 under clause (i).”.