

appropriation has expired, to the appropriation or fund that is currently available to the activity for the same purpose. Amounts so credited shall be subject to the same provisions and restrictions as the appropriation or account to which credited.

(May 27, 1955, ch. 105, § 5, 69 Stat. 67; Pub. L. 110-181, div. A, title X, §1080, Jan. 28, 2008, 122 Stat. 335; Pub. L. 112-81, div. A, title III, §364(a), Dec. 31, 2011, 125 Stat. 1380.)

#### AMENDMENTS

2011—Subsec. (b). Pub. L. 112-81 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Notwithstanding the provisions of subsection (a), all sums received for any Department of Defense activity for fire protection rendered pursuant to this subchapter shall be credited to the appropriation fund or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation fund or account and shall be available for the same purposes and subject to the same limitations as the funds with which the funds are merged.”

2008—Pub. L. 110-181 designated existing provisions as subsec. (a) and added subsec. (b).

#### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-81, div. A, title III, §364(b), Dec. 31, 2011, 125 Stat. 1380, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to reimbursements for expenditures of funds appropriated after the date of the enactment of this Act [Dec. 31, 2011].”

### SUBCHAPTER II—WILDFIRE SUPPRESSION WITH FOREIGN FIRE ORGANIZATION

#### § 1856m. Definitions

In this subchapter:

##### (1) Assume any and all liability

The term “assume any and all liability” means—

(A) the payment of—

(i) any judgment, settlement, fine, penalty, or cost assessment (including prevailing party legal fees) associated with the applicable litigation; and

(ii) any cost incurred in handling the applicable litigation (including legal fees); and

(B) with respect to a Federal firefighter, arranging for, and paying the costs of, representation in the applicable litigation.

##### (2) Federal firefighter

The term “Federal firefighter” means an individual furnished by the Secretary of Agriculture or the Secretary of the Interior under an agreement entered into under section 1856n of this title.

##### (3) Foreign fire organization

The term “foreign fire organization” means any foreign governmental, public, or private entity that has wildfire protection resources.

##### (4) Foreign firefighter

The term “foreign firefighter” means an individual furnished by a foreign fire organization under an agreement entered into under section 1856n of this title.

##### (5) Wildfire

The term “wildfire” means any forest or range fire.

#### (6) Wildfire protection resources

The term “wildfire protection resources” means any personnel, supplies, equipment, or other resources required for wildfire pre-suppression and suppression activities.

(Pub. L. 100-428, § 2, as added Pub. L. 112-74, div. E, title IV, §411(2), Dec. 23, 2011, 125 Stat. 1039.)

#### PRIOR PROVISIONS

A prior section 1856m, Pub. L. 100-428, § 2, Sept. 9, 1988, 102 Stat. 1615, related to definitions, prior to repeal by Pub. L. 112-74, div. E, title IV, §411(2), Dec. 23, 2011, 125 Stat. 1039.

#### SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101-11, § 1, Apr. 7, 1989, 103 Stat. 15, provided that: “This Act [repealing section 1856p of this title] may be cited as the ‘Wildfire Suppression Assistance Act’.”

#### SHORT TITLE

Pub. L. 100-428, § 1, Sept. 9, 1988, 102 Stat. 1615, as amended by Pub. L. 112-74, div. E, title IV, §411(1), Dec. 23, 2011, 125 Stat. 1039, provided that: “This Act [enacting this subchapter] may be cited as the ‘Emergency Wildfire Suppression Act’.”

#### § 1856n. Implementation

##### (a) Exchange of wildfire protection resources under a reciprocal agreement with a foreign fire organization

###### (1) Authority to enter into a reciprocal agreement

The Secretary of Agriculture or the Secretary of the Interior, in consultation with the Secretary of State, may enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.

###### (2) Requirements for a reciprocal agreement

Any agreement entered into under this subsection—

(A) shall include a waiver by each party to the agreement of all claims against every other party to the agreement for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement;

(B) shall include a provision to allow the termination of such agreement by any party thereto after reasonable notice; and

(C) may provide for the reimbursement of any party thereto for all or any part of the costs incurred by such party in furnishing wildfire protection resources for, or on behalf of, any other party thereto.

##### (b) Exchange of wildfire protection resources without a reciprocal agreement

In the absence of any agreement authorized under subsection (a) of this section, the Secretary of Agriculture or the Secretary of the Interior may—

(1) furnish emergency wildfire protection resources to any foreign nation when the furnishing of such resources is determined by such Secretary to be in the best interest of the United States; and

(2) accept emergency wildfire protection resources from any foreign fire organization when the acceptance of such resources is determined by such Secretary to be in the best interest of the United States.

**(c) Reimbursement under agreements with Canada**

Notwithstanding the preceding provisions of this section, reimbursement may be provided for the costs incurred by the Government of Canada or a Canadian organization in furnishing wildfire protection resources to the Government of the United States under—

(1) the memorandum entitled “Memorandum of Understanding Between the United States Department of Agriculture and Environment Canada on Cooperation in the Field of Forestry-Related Programs” dated June 25, 1982; and

(2) the arrangement entitled “Arrangement in the Form of an Exchange of Notes Between the Government of Canada and the Government of the United States of America” dated May 4, 1982.

**(d) Service performed under this subchapter by Federal employees**

**(1) In general**

Any service performed by any employee of the United States under an agreement or otherwise under this subchapter shall constitute service rendered in the line of duty in such employment.

**(2) Effect**

Except as provided in section 1856n-1 of this title, the performance of such service by any other individual shall not make such individual an employee of the United States.

(Pub. L. 100-428, § 3, Sept. 9, 1988, 102 Stat. 1615; Pub. L. 112-74, div. E, title IV, § 411(3), Dec. 23, 2011, 125 Stat. 1040.)

AMENDMENTS

2011—Subsec. (a). Pub. L. 112-74, § 411(3)(A), inserted headings for subsec. (a) and pars. (1) and (2).

Subsec. (b). Pub. L. 112-74, § 411(3)(B)(i), inserted heading.

Subsec. (b)(1). Pub. L. 112-74, § 411(3)(B)(ii), substituted “United States; and” for “United States, and”.

Subsec. (c). Pub. L. 112-74, § 411(3)(C), inserted heading.

Subsec. (d). Pub. L. 112-74, § 411(3)(D), inserted subsec. heading, designated first and second sentences as pars. (1) and (2), respectively, inserted par. headings, and substituted “Except as provided in section 1856n-1 of this title, the” for “The” in par. (2).

**§ 1856n-1. Reciprocal agreements with liability coverage**

**(a) Protection from liability for foreign firefighters and foreign fire organizations**

Subject to subsection (b), in an agreement with a foreign fire organization entered into under section 1856n of this title, the Secretary of Agriculture and the Secretary of the Interior may provide that—

(1) a foreign firefighter shall be considered to be an employee of the United States for purposes of tort liability while the foreign firefighter is acting within the scope of an official duty under the agreement; and

(2) any claim against the foreign fire organization or any legal organization associated with the foreign firefighter that arises out of an act or omission of the foreign firefighter in the performance of an official duty under the agreement, or that arises out of any other act, omission, or occurrence for which the foreign fire organization or legal organization associated with the foreign firefighter is legally responsible under applicable law, may be prosecuted only—

(A) against the United States; and

(B) as if the act or omission were the act or omission of an employee of the United States.

**(b) Protection from liability for Federal firefighters and the Federal Government**

The Secretary of Agriculture and the Secretary of the Interior may provide the protections under subsection (a) if the foreign fire organization agrees—

(1) to assume any and all liability for any legal action brought against the Federal firefighter for an act or omission of the Federal firefighter while acting within the scope of an official duty under the agreement; and

(2) to the extent the United States or any legal organization associated with the Federal firefighter is not entitled to immunity from the jurisdiction of the courts having jurisdiction over the foreign fire organization receiving the services of the Federal firefighters, to assume any and all liability for any legal action brought against the United States or the legal organization arising out of—

(A) an act or omission of the Federal firefighter in the performance of an official duty under the agreement; or

(B) any other act, omission, or occurrence for which the United States or the legal organization associated with the Federal firefighter is legally responsible under the laws applicable to the foreign fire organization.

(Pub. L. 100-428, § 4, as added Pub. L. 112-74, div. E, title IV, § 411(5), Dec. 23, 2011, 125 Stat. 1040.)

PRIOR PROVISIONS

A prior section 4 of Pub. L. 100-428 was renumbered section 5 and is classified to section 1856o of this title.

**§ 1856o. Funds**

Funds available to the Secretary of Agriculture or the Secretary of the Interior for wildfire protection resources in connection with activities under the jurisdiction of such Secretary may be used to carry out activities authorized under agreements or otherwise under this subchapter, or for reimbursements authorized under this subchapter: *Provided*, That no such funds may be expended for wildfire protection resources (including personnel) provided by a foreign fire organization for wildfire suppression activities unless the Secretary determines that no wildfire protection resources (including personnel) within the United States are reasonably available to provide wildfire suppression.

(Pub. L. 100-428, § 5, formerly § 4, Sept. 9, 1988, 102 Stat. 1616; renumbered § 5 and amended Pub. L. 112-74, div. E, title IV, § 411(4), (6), Dec. 23, 2011, 125 Stat. 1040, 1041.)