

42 USC Ch. 15A: RECIPROCAL FIRE PROTECTION AGREEMENTS

From Title 42—THE PUBLIC HEALTH AND WELFARE

CHAPTER 15A—RECIPROCAL FIRE PROTECTION AGREEMENTS

SUBCHAPTER I—PROTECTION OF UNITED STATES PROPERTY

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SUBCHAPTER I—PROTECTION OF UNITED STATES PROPERTY

§1856. Definitions

As used in this subchapter—

(a) The term "agency head" means the head of any executive department, military department, agency, or independent establishment in the executive branch of the Government;

(b) The term "fire protection" includes personal services and equipment required for fire prevention, the protection of life and property from fire,¹ fire fighting, and emergency services, including basic medical support, basic and advanced life support, hazardous material containment and confinement, and special rescue events involving vehicular and water mishaps, and trench, building, and confined space extractions; and

(c) The term "fire organization" means any governmental entity or public or private corporation or association maintaining fire protection facilities within the United States, its Territories and possessions, and any governmental entity or public or private corporation or association which maintains fire protection facilities in any foreign country in the vicinity of any installation of the United States.

(May 27, 1955, ch. 105, §1, 69 Stat. 66; Pub. L. 109–163, div. A, title X, §1060, Jan. 6, 2006, 119 Stat. 3444.)

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–163 substituted ", fire fighting, and emergency services, including basic medical support, basic and advanced life support, hazardous material containment and confinement, and special rescue events involving vehicular and water mishaps, and trench, building, and confined space extractions" for "and fire fighting".

¹ *So in original.*

§1856a. Authority to enter into reciprocal agreement; waiver of claims; reimbursement; ratification of prior agreements

(a) Each agency head charged with the duty of providing fire protection for any property of the United States is authorized to enter into a reciprocal agreement, with any fire organization maintaining fire protection facilities in the vicinity of such property, for mutual aid in furnishing fire protection for such property and for other property for which such organization normally provides fire protection. Each such agreement shall include a waiver by each party of all claims against every other party for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement. Any such agreement may provide for the reimbursement of any party for all or any part of the cost incurred by such party in furnishing fire protection for or on behalf of any other party.

(b) Any agreement heretofore executed which would have been authorized by this subchapter, if this subchapter had been in effect on the date of execution thereof, is ratified and confirmed.

(May 27, 1955, ch. 105, §2, 69 Stat. 66.)

§1856a–1. Authority to enter into contracts with State and local governmental entities

Notwithstanding any other provision of law, in fiscal year 1992 and thereafter, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, the Secretary of the Army, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

(Pub. L. 102–154, title III, §309, Nov. 13, 1991, 105 Stat. 1034; Pub. L. 110–114, title II, §2012, Nov. 8, 2007, 121 Stat. 1075.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1992, and not as part of act May 27, 1955, which comprises this subchapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation act: Pub. L. 101–512, title III, §310, Nov. 5, 1990, 104 Stat. 1959.

AMENDMENTS

2007—Pub. L. 110–114 inserted "the Secretary of the Army," after "the Secretary of Energy,".

§1856b. Emergency assistance

In the absence of any agreement authorized or ratified by section 1856a of this title, each agency head is authorized to render emergency assistance in extinguishing fires and in preserving life and property from fire, within the vicinity of any place at which such agency maintains fire-protection facilities, when the rendition of such assistance is determined, under regulations prescribed by the agency head, to be in the best interest of the United States.

(May 27, 1955, ch. 105, §3, 69 Stat. 67.)

§1856c. Service in line of duty

Any service performed under section 1856a or section 1856b of this title, by any officer or employee of the United States or any member of any armed force of the United States shall constitute service rendered in line of duty in such office, employment, or force. The performance of such service by any other individual shall not constitute such individual an officer or employee of the United States for the purposes of subchapter I of chapter 81 of title 5.

(May 27, 1955, ch. 105, §4, 69 Stat. 67.)

EDITORIAL NOTES

CODIFICATION

"Subchapter I of chapter 81 of title 5" substituted for "the Federal Employees' Compensation Act, as amended" on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§1856d. Funds

(a) Funds available to any agency head for fire protection on installations or in connection with activities under the jurisdiction of such agency may be used to carry out the purposes of this subchapter. All sums received by any agency head for fire protection rendered pursuant to this subchapter shall be covered into the Treasury as miscellaneous receipts.

(b) Notwithstanding subsection (a), all sums received as reimbursements for costs incurred by any Department of Defense or Department of Agriculture activity for fire protection rendered pursuant to this subchapter shall be credited to the same appropriation or fund from which the expenses were paid or, if the period of availability for obligation for that 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; Pub. L. 113-79, title VIII, §8304(f), Feb. 7, 2014, 128 Stat. 924.)

EDITORIAL NOTES

AMENDMENTS

2014—Subsec. (b). Pub. L. 113-79 inserted "or Department of Agriculture" after "Department of Defense".

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).

STATUTORY NOTES AND RELATED SUBSIDIARIES

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]."

§1856e. Reimbursement of fire funds

(a) Definition of State

In this section, the term "State" means—

- (1) a State; and
- (2) the Commonwealth of Puerto Rico.

(b) In general

If a State seeks reimbursement for amounts expended for resources and services provided to another State for the management and suppression of a wildfire, the Secretary, subject to subsections (c) and (d)—

- (1) may accept the reimbursement amounts from the other State; and
- (2) shall pay those amounts to the State seeking reimbursement.

(c) Mutual assistance agreement

As a condition of seeking and providing reimbursement under subsection (b), the State seeking reimbursement and the State providing reimbursement must each have a mutual assistance agreement with the Forest Service or another Federal agency for providing and receiving wildfire management and suppression resources and services.

(d) Terms and conditions

The Secretary may prescribe the terms and conditions determined to be necessary to carry out subsection (b).

(e) Effect on prior reimbursements

Any acceptance of funds or reimbursements made by the Secretary before February 7, 2014, that otherwise would have been authorized under this section shall be considered to have been made in accordance with this section.

(Pub. L. 113–79, title VIII, §8304, Feb. 7, 2014, 128 Stat. 924.)

EDITORIAL NOTES**CODIFICATION**

Section was enacted as part of the Agricultural Act of 2014, and not as part of act May 27, 1955, which comprises this subchapter.

Section is comprised of section 8304 of Pub. L. 113–79. Subsec. (f) of section 8304 of Pub. L. 113–79 amended section 1856d of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES**DEFINITION OF "SECRETARY"**

"Secretary" means the Secretary of Agriculture, see section 9001 of Title 7, Agriculture.

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 presuppression 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.)

EDITORIAL NOTES

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.

STATUTORY NOTES AND RELATED SUBSIDIARIES

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), 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.)

EDITORIAL NOTES**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.)

EDITORIAL NOTES**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.)

EDITORIAL NOTES**PRIOR PROVISIONS**

A prior section 5 of Pub. L. 100–428 was classified to section 1856p of this title prior to repeal by Pub. L. 101–11.

AMENDMENTS

2011—Pub. L. 112–74, §411(6), substituted "under this subchapter" for "under section 1856n(c) of this title", "wildfire protection resources (including personnel)" for "wildfire protection resources or personnel" in two places, and "provide wildfire suppression" for "provide wildfire protection" and inserted "for wildfire suppression activities" before "unless".

§1856p. Repealed. Pub. L. 101–11, §2, Apr. 7, 1989, 103 Stat. 15

Section, Pub. L. 100–428, §5, Sept. 9, 1988, 102 Stat. 1616, provided that authority to enter into agreements, to furnish or accept emergency wildfire protection resources, or to incur obligations for reimbursement under section 1856n of this title was to terminate Dec. 31, 1988.