

### Subpart C—Compensation for Injury, Disability or Death

#### § 61.200 Entitlement to benefits.

(a) Compensation under section 101(a) of the Act is payable for injury or death due to a war-risk hazard of an employee listed in § 61.1(a), whether or not the person was engaged in the course of his or her employment at the time of the injury.

(b) Compensation under this subpart is paid under the provisions of the Federal Employees' Compensation Act, as amended (5 U.S.C. 8101 *et seq.*), except that the determination of beneficiaries and the computation of compensation are made in accordance with sections 6, 8, 9, and 10 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 *et seq.*).

(c) The Office may not approve a claim for compensation if any of the following conditions are met:

(1) The employee resides at or in the vicinity of the place of employment, does not live there solely due to the exigencies of the employment, and is injured outside the course of the employment.

(2) The claim is filed due to the injury or death of a prisoner of war detained or utilized by the United States.

(3) The person seeking benefits recovers or receives workers' compensation benefits from any other source for the same injury or death.

(4) The person seeking benefits is a national of a foreign country and is entitled to compensation benefits from that or any other foreign country on account of the same injury or death.

(5) The employee is convicted in a court of competent jurisdiction of any subversive act against the United States or any of its allies.

#### § 61.201 Filing of notice and claim.

An employee or his or her survivors may file a claim under section 101(a) of the Act only after a determination has been made that no benefits are payable under the Defense Base Act administered by the Office's Division of Longshore and Harbor Workers' Compensation. Notice and claim may be filed on standard Longshore or Federal Employees' Compensation Act forms. The claimant shall submit notice and

claim, along with any supporting documentation, to the U.S. Department of Labor, Office of Workers' Compensation Programs, Branch of Special Claims, P.O. Box 37117, Washington, DC 20013-7117.

#### § 61.202 Time limitations for filing notice and claim.

The time limitation provisions found in 5 U.S.C. 8119 apply to the filing of claims under section 101(a) of the War Hazards Compensation Act. The Office may waive the time limitations if it finds that circumstances beyond the claimant's control prevented the filing of a timely claim.

#### § 61.203 Limitations on and deductions from benefits.

(a) Compensation payable for injury, disability or death may not exceed the maximum limitations specified in section 6(b) of the Longshore and Harbor Workers' Compensation Act, as amended.

(b) In determining benefits for disability or death, the Office shall not apply the minimum limits found in sections 6(b) and 9(e) of the Longshore and Harbor Workers' Compensation Act.

(c) Compensation for death or permanent disability payable to persons who are not citizens of the United States and who are not residents of the United States or Canada is in the same amount as provided for residents, except that dependents in a foreign country are limited to the employee's spouse and children, or if there be no spouse or children, to the employee's father or mother whom the employee supported, either wholly or in part, for the period of one year immediately prior to the date of the injury. The Office may discharge its liability for all future payments of compensation to a noncitizen/nonresident by paying a lump sum representing one-half the commuted value of all future compensation as determined by the Office.

(d) If any employee or beneficiary receives or claims wages, payments in lieu of wages, or insurance benefits for disability or loss of life (other than workers' compensation benefits), and the cost of these payments is provided in whole or in part by the United

States, the Office shall credit the amount of the benefits against any payments to which the person is entitled under the Act. The Office shall apply credit only where the wages, payments, or benefits received are items for which the contractor is entitled to reimbursement from the United States, or where they are otherwise reimbursable by the United States.

(e) If an employee who is receiving workers' compensation benefits on account of a prior accident or disease sustains an injury compensable under the Act, the employee is not entitled to any benefits under the Act during the period covered by other workers' compensation benefits unless the injury from a war-risk hazard increases the employee's disability. If the war-risk injury increases the disability, compensation under the Act is payable only for the amount of the increase in disability. This provision is applicable only to disability resulting jointly from two unrelated causes, namely, (1) prior industrial accident or disease, and (2) injury from a war-risk hazard.

(f) Compensation for disability under this subchapter, with the exception of allowances for scheduled losses of members or functions of the body, may not be paid for the same period of time during which benefits for detention under this subchapter are paid or accrued.

**§ 61.204 Furnishing of medical treatment.**

All medical services, appliances, drugs and supplies which in the opinion of the Office are necessary for the treatment of an injury coming within the purview of section 101(a) of the Act shall be furnished to the same extent, and wherever practicable in the same manner and under the same regulations, as are prescribed for the furnishing of medical treatment under the Federal Employees' Compensation Act, as amended (5 U.S.C. 8101 *et seq.*).

**§ 61.205 Burial expense.**

(a) When the death of a person listed in § 61.1(a) results from an injury caused by a war-risk hazard, the Office shall pay reasonable burial expenses up to the amount specified in section 9 of the Longshore and Harbor Workers'

Compensation Act. If any part of the burial expense has been paid by any other agency of the United States, or by any person under obligation to discharge burial expenses, the amount so paid shall be deducted from the burial expense payable by the Office. Payment will be made directly (1) to the undertaker, (2) to the estate of the deceased if the estate is obligated to make payment, or (3) to any person who has paid such burial expenses and is entitled to such reimbursement.

(b) If the employee's home is within the United States and death occurs away from the employee's home or outside the United States, the Office may pay an additional sum for transporting the remains to the home.

**§ 61.206 Reports by employees and dependents.**

The Office may require a claimant to submit reports of facts materially affecting the claimant's entitlement to compensation under the Act. These may include reports of recurrence or termination of disability, of employment and earnings, or of a change in the marital or dependency status of a beneficiary.

**Subpart D—Detention Benefits**

**§ 61.300 Payment of detention benefits.**

(a) The Office shall pay detention benefits to any person listed in § 61.1(a) who is detained by a hostile force or person, or who is not returned to his or her home or to the place of employment by reason of the failure of the United States or its contractor to furnish transportation. Benefits are payable for periods of absence on and subsequent to January 1, 1942, regardless of whether the employee was actually engaged in the course of his or her employment at the time of capture or disappearance.

(b) For the purposes of paying benefits for detention, the employee is considered as totally disabled until the time that the employee is returned to his or her home, to the place of employment, or to the jurisdiction of the United States. The Office shall credit the compensation benefits to the employee's account, to be paid to the employee for the period of the absence or