28.305 Overseas workers’ compensation and war-hazard insurance.

(a) "Public-work contract," as used in this subpart, means any contract for a fixed improvement or for any other project, fixed or not, for the public use of the *United States* or its allies, involving *construction*, alteration, removal, or repair, including projects or operations under service contracts and projects in connection with the *national defense* or with war activities, dredging, harbor improvements, dams, roadways, and housing, as well as preparatory and ancillary work in connection therewith at the site or on the project.

(b) The Defense Base Act (42 U.S.C.1651, *etseq*.) extends the Longshoremen’s and Harbor Workers’ Compensation Act (33 U.S.C. 901) to various classes of employees working outside the *United States*, including those engaged in performing-

(1) Public-work contracts; or

(2) Contracts approved or financed under the Foreign Assistance Act of1961 (Pub.L.87-195) other than-

(i) Contracts approved or financed by the Development Loan Fund (unless the Secretary of Labor, acting upon the recommendation of a department or agency, determines that such contracts *should* be covered); or

(ii) Contracts exclusively for materials or *supplies*.

(c) When the Defense Base Act applies (see 42 U.S.C.1651, *etseq*.) to these employees, the benefits of the Longshoremen’s and Harbor Workers’ Compensation Act are extended through operation of the War Hazards Compensation Act (42 U.S.C.1701, *etseq*.) to protect the employees against the risk of war hazards (injury, death, capture, or detention). When, by means of an *insurance* policy or a *self-insurance* program, the contractor provides the workers’ compensation coverage required by the Defense Base Act, the contractor’s employees automatically receive war-hazard risk protection.

(d) When the *agency head* recommends a waiver to the Secretary of Labor, the Secretary *may* waive the applicability of the Defense Base Act to any contract, subcontract, work location, or classification of employees.

(e) If the Defense Base Act is waived for some or all of the contractor’s employees, the benefits of the War Hazards Compensation Act are automatically waived with respect to those employees for whom the Defense Base Act is waived. For those employees, the contractor *shall* provide workers’ compensation coverage against the risk of work injury or death and assume liability toward the employees and their beneficiaries for war-hazard injury, death, capture, or detention. The contract *shall* provide either that the costs of this liability or the reasonable costs of *insurance* against this liability *shall* be allowed as a cost under the contract.

Parent topic: Subpart 28.3 - Insurance