



**U.S. Department of Labor**  
Office of Workers' Compensation

Date: June 5, 2013

WAIVER NUMBER: DOD 2013-01

**WAIVER**  
**Issued Under Section 1(e) of the**  
**DEFENSE BASE ACT**

The Defense Base Act, codified at 42 U.S.C. 1651 et seq, permits the Secretary of Labor, in the exercise of his/her discretion, upon the recommendation of the head of any department or agency of the United States, to waive the application of the Defense Base Act with respect to any contract, subcontract or subordinate contract, work location under such contracts, or classification of employees.

**A. Requesting Agency**

A waiver has been requested by the Department of Defense, through the United States Army. The Department of State and the United States Agency for International Development (USAID) joined in the request for this geographic waiver.

**B. Scope of Waiver**

This waiver of the Defense Base Act applies to

1. The classification of employees set forth in Section C below;
2. All contracts, subcontracts or subordinate contracts;
3. All agencies of the United States including the Department of Defense, The Department of State and the United States Agency for International Development;
4. Work to be performed at any location in the Netherlands;
5. Work which would have otherwise been covered by the Defense Base Act,

**C. Classification of Employees**

All employees covered under all laws of the Netherlands relating to Compulsory Employee and National Insurance Schemes covering occupational injuries, illnesses and deaths.

D. **Conditions of Waiver**

1. **This Waiver does not apply** to any employees who:
  - a. Are citizens of the United States of America; or,
  - b. Are lawful residents of the United States of America; or,
  - c. Were hired in the United States of America.
  
2. **This waiver covers** only those employees that are covered under all laws of the Netherlands relating to Compulsory Employee and National Insurance Schemes covering occupational injuries, illnesses and deaths where the employer is in full conformance in all respects with all requirements and regulations of the laws of the Netherlands relating to said Compulsory Employee and National Insurance Schemes at the time of any injury, illness, or death.
  
3. **This waiver excludes** employers otherwise covered by the Defense Base Act, with respect only to the classification of employees specified in Sections C. and D.2 above, from all rights and obligations under the Longshore and Harbor Workers' Compensation Act, as extended by the Defense Base Act, and in particular from:
  - a. The exclusive liability provision under 42 U.S.C. 1651(c);
  - b. The obligation to secure payment of compensation under 33 U.S.C. 932(a)(1);
  - c. The penalties for failure to secure such payment under 33 U.S.C. 938(a);
  - d. The penalties for failure to report claims under 33 U.S.C. 930(a); and,
  - e. The provisions of 33 U.S.C. 905(a).
  
4. For any employees for whom the applicability of the Defense Base Act has been waived, the employer is responsible for providing for those employees the same protection as that provided by the War Hazards Compensation Act (42 U.S.C. 1701, et seq) except that the level of such benefits shall conform to any law or international agreement controlling the benefits to which those employees may be entitled.
  
5. The term "Compulsory Employee and National Insurance Schemes" means laws which provide at least for compulsory payment of compensation and medical benefits for an accidental injury (including occupational illness and death), arising out of or in the course of employment, to employees or their survivors without payment for or contribution to the cost of the insurance or benefits by the employee and without reduction for the employee's fault. The benefits must not cease if the employee is repatriated to his or her own country of hire.

E. **Separability and Termination**

If the applicability of this Waiver to any employer or employee is held to be invalid, the applicability to other employers or employees shall not be affected thereby. On expiration, modification, termination, suspension or revocation of this waiver, all rights or obligations under it shall continue for all injuries, disease, or death arising prior to that date.

**F. Previous Waivers**

All previous Waivers granted with respect to **The Netherlands** are hereby revoked and superseded by this Waiver. Any rights which may have accrued under previous waivers are covered under this Waiver.

**G. Grant of Waiver and Effective Date**

Pursuant to the authority granted to the Secretary of Labor under 42 U.S.C. 1651(e), waiver of the application of the Defense Base Act is hereby granted to

- All United States Government Agencies

with respect to work performed in the Netherlands , and subject to the conditions listed above, for a period of one calendar year unless earlier modified, terminated, suspended, or revoked.

This waiver is effective June 6, 2013 and expires on June 6, 2014.

**Issued by the Office of Workers' Compensation Programs  
U.S. Department of Labor, Washington, D.C.**

 for Antonio A. Rios

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**ANTONIO A. RIOS, Director  
Division of Longshore and Harbor Workers' Compensation**