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SOURCE: 76 FR 37947, June 28, 2011, unless otherwise noted.

**Subpart A—General Provisions**

**§ 25.1 How are claims of Federal employees who are neither citizens nor residents adjudicated?**

This part describes how OWCP pays compensation under the FECA to employees of the United States who are neither citizens nor residents of the United States, any territory or Canada, as well as to any dependents of such employees. It has been determined that the compensation provided under the FECA is substantially disproportionate to the compensation for disability or death which is payable in similar cases under local law, regulation, custom or otherwise, in areas outside the United States, any territory or Canada and therefore a special schedule should apply to such cases. This special schedule applies to any non-citizen non-resident Federal employee who is neither hired nor employed in the United States, Canada or in a possession or territory of the United States. Therefore, with respect to the claims of such employees whose injury (or injury resulting in death) has occurred subse-

quent to August 29, 2011, or may occur, the regulations in this part shall apply.

**§ 25.2 In general, what is the Director's policy regarding such claims?**

(a) Pursuant to 5 U.S.C. 8137(a)(2), a special schedule is established by subpart B of this part that applies to any non-citizen non-resident Federal employee who is neither hired nor employed in the United States, Canada or in a possession or territory of the United States (hereinafter non-citizen non-resident employees). The special schedule in subpart B of this part is subject to the exceptions set forth in paragraph (b) of this section. The special schedule set forth in subpart B of this part applies to claims of such employees whose injury (or injury resulting in death) occurred on or after August 29, 2011.

(b) This special schedule of compensation established by subpart B of this part shall apply to non-citizen non-resident employees outside of the United States unless:

(1) The injured employee receives compensation pursuant to a specific separate agreement between the United States and another government (or similar compensation from another sovereign government);

(2) The employee receives compensation pursuant to the special schedule under subpart C for the particular locality, or for a class of employees in that particular locality; or

(3) The employee otherwise establishes entitlement to compensation under local law pursuant to § 25.100(e).

(c) Compensation in all cases of such employees paid and closed prior to August 29, 2011 shall be deemed compromised and paid under 5 U.S.C. 8137. In all other cases, compensation may be adjusted to conform with the regulations in this part, or the beneficiary may by compromise or agreement with the Director have compensation continued on the basis of a previous adjustment of the claim.

(d) Compensation received by beneficiaries pursuant to 5 U.S.C. 8137 and the special schedule set forth in subpart B or as otherwise specified in paragraph (b) of this section is the exclusive measure of compensation in cases of injury (or death from injury)

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to non-citizen non-resident employees of the United States as specified in paragraph (a) of this section.

(e) Compensation for disability and death of non-citizen non-resident employees outside the United States under this part shall in no event exceed that generally payable under the FECA.

#### **§ 25.3 What is the authority to settle and pay such claims?**

In addition to the authority to receive, process and pay claims, when delegated such representative or agency receiving delegation of authority shall, in respect to cases adjudicated under this part, and when so authorized by the Director, have authority to make lump-sum awards (in the manner prescribed by 5 U.S.C. 8135) whenever such authorized representative shall deem such settlement to be for the best interest of the United States, and to compromise and pay claims for any benefits provided for under this part, including claims in which there is a dispute as to questions of fact or law. The Director shall, in instructions to the particular representative concerned, establish such procedures in respect to action under this section as he or she may deem necessary, and may specify the scope of any administrative review of such action.

#### **§ 25.4 What type of evidence is required to establish a claim under this part?**

Claims of non-citizen non-resident employees of the United States as specified in § 25.2(a), if otherwise compensable, shall be approved only upon evidence of the following nature without regard to the date of injury or death for which the claim is made:

- (a) Appropriate certification by the Federal employing establishment; or
- (b) An armed service's casualty or medical record; or
- (c) Verification of the employment and casualty by Department of Defense personnel; or
- (d) Recommendation of an armed service's "Claim Service" based on investigations conducted by it.

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#### **§ 25.5 How does OWCP adjudicate claims of non-citizen residents of possessions or territories?**

An employee who is a bona fide permanent resident of any United States possession, territory, commonwealth, or trust territory will receive the full benefits of the FECA, as amended, except that the application of the minimum benefit provisions provided therein shall be governed by the restrictions set forth in 5 U.S.C. 8138.

### **Subpart B—The Special Schedule of Compensation**

#### **§ 25.100 What general provisions does OWCP apply to the Special Schedule?**

(a) The definitions of terms in the FECA, as amended, shall apply to terms used in this subpart.

(b) The provisions of the FECA, unless modified by this subpart or otherwise inapplicable, shall be applied whenever possible in the application of this subpart.

(c) The provisions of the regulations for the administration of the FECA, as amended or supplemented from time to time by instructions applicable to this subpart, shall apply in the administration of compensation under this subpart, whenever they can reasonably be applied.

#### **§ 25.101 How is compensation for disability paid?**

Compensation for disability shall be paid to the non-citizen non-resident employee as follows:

(a) *Temporary total disability.* Where the injured employee is disabled and unable to earn wages equivalent to those earned at the time of injury for a period of time less than two years, the employee shall receive 50 percent of the monthly pay during the period of such disability.

(b) *Temporary partial disability.* Where the injured employee is disabled and unable to earn equivalent wages to those earned at the time of injury, but who is not totally disabled for work, the injured employee shall receive during the period of disability, that proportion of compensation for temporary total disability, as determined under paragraph (a) of this section, which is