§ 1580. Emergency essential employees: designation

(a) Criteria for Designation.— The Secretary of Defense or the Secretary of the military department concerned may designate as an emergency essential employee any employee of the Department of Defense, whether permanent or temporary, the duties of whose position meet all of the following criteria:

(1) It is the duty of the employee to provide immediate and continuing support for combat operations or to support maintenance and repair of combat essential systems of the armed forces.

(2) It is necessary for the employee to perform that duty in a combat zone after the evacuation of nonessential personnel, including any dependents of members of the armed forces, from the zone in connection with a war, a national emergency declared by Congress or the President, or the commencement of combat operations of the armed forces in the zone.

(3) It is impracticable to convert the employee’s position to a position authorized to be filled by a member of the armed forces because of a necessity for that duty to be performed without interruption.

(b) Eligibility of Employees of Nonappropriated Fund Instrumentalities.— A nonappropriated fund instrumentality employee is eligible for designation as an emergency essential employee under subsection (a).

(c) Definitions.— In this section:

(1) The term “combat zone” has the meaning given that term in section 112(c)(2) of the Internal Revenue Code of 1986.

(2) The term “nonappropriated fund instrumentality employee” has the meaning given that term in section 1587 (a)(1) of this title.