

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.

(Added Pub. L. 106–65, div. A, title XI, §1103(b)(1), Oct. 5, 1999, 113 Stat. 776.)

#### REFERENCES IN TEXT

Section 112(c)(2) of the Internal Revenue Code of 1986, referred to in subsec. (c)(1), is classified to section 112(c)(2) of Title 26, Internal Revenue Code.

#### PRIOR PROVISIONS

A prior section 1580, added Pub. L. 87–651, title II, §206(a), Sept. 7, 1962, 76 Stat. 519, related to appointment of civilian employees by the Secretary of Defense, prior to repeal by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 663.

### § 1580a. Emergency essential employees: notification of required participation in anthrax vaccine immunization program

The Secretary of Defense shall—

(1) prescribe regulations for the purpose of ensuring that any civilian employee of the Department of Defense who is determined to be an emergency essential employee and who is required to participate in the anthrax vaccine immunization program is notified of the requirement to participate in the program and the consequences of a decision not to participate; and

(2) ensure that any individual who is being considered for a position as such an employee is notified of the obligation to participate in the program before being offered employment in such position.

(Added Pub. L. 106–398, §1 [[div. A], title VII, §751(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–194.)

### § 1581. Foreign National Employees Separation Pay Account

(a) **ESTABLISHMENT AND PURPOSE.**—There is established on the books of the Treasury an account to be known as the “Foreign National Employees Separation Pay Account, Defense”. The account shall be used for the accumulation of funds to finance obligations of the United States for separation pay for foreign nationals referred to in subsection (e).

(b) **DEPOSITS INTO ACCOUNT.**—The Secretary of Defense shall deposit into the account from applicable appropriations all amounts obligated for separation pay for foreign nationals referred to in subsection (e).

(c) **PAYMENTS FROM ACCOUNT.**—Amounts in the account shall remain available for expenditure in accordance with the purpose for which obligated until expended.

(d) **DEOBLIGATED FUNDS.**—Any amount in the account that is deobligated shall be available for a period of two years from the date of deobligation for recording, adjusting, and liquidating amounts properly chargeable to the liability of the United States for which the obligation was made. Any such deobligated amount remaining at the end of such two-year period shall be canceled.

(e) **EMPLOYEES COVERED.**—This section applies only with respect to separation pay of foreign nationals employed by the Department of Defense, and foreign nationals employed by a foreign government for the benefit of the Department of Defense, under any of the following agreements that provide for payment of separation pay:

(1) A contract.

(2) A treaty.

(3) A memorandum of understanding with a foreign nation.

(Added Pub. L. 102–190, div. A, title X, §1003(a)(1), Dec. 5, 1991, 105 Stat. 1456; amended Pub. L. 102–484, div. A, title X, §1052(20), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103–337, div. A, title III, §346, Oct. 5, 1994, 108 Stat. 2724; Pub. L. 107–107, div. A, title X, §1048(e)(2), Dec. 28, 2001, 115 Stat. 1227.)

#### PRIOR PROVISIONS

A prior section 1581, acts Aug. 10, 1956, ch. 1041, 70A Stat. 118; Sept. 2, 1958, Pub. L. 85–861, §1(34), 72 Stat. 1456; May 29, 1959, Pub. L. 86–36, §3, 73 Stat. 63; Sept. 23, 1959, Pub. L. 86–377, §2, 73 Stat. 701; Oct. 4, 1961, Pub. L. 87–367, title II, §203, 75 Stat. 790; Oct. 11, 1962, Pub. L. 87–793, §1001(b), 76 Stat. 863, provided for appointment of a limited number of civilian research and development personnel and prescribed their relationship to civil service provisions, prior to repeal by Pub. L. 97–295, §1(19)(A), Oct. 12, 1982, 96 Stat. 1290.

#### AMENDMENTS

2001—Subsec. (b). Pub. L. 107–107 struck out par. (2) designation and “on or after December 5, 1991,” after “all amounts obligated” and struck out par. (1) which read as follows: “The Secretary of the Treasury shall deposit into the account all amounts that were obligated by the Secretary of Defense before December 5, 1991, and that remain unexpended for separation pay for foreign nationals referred to in subsection (e).”

1994—Subsecs. (a), (b). Pub. L. 103–337, §346(1), substituted “foreign nationals referred to in subsection (e)” for “foreign national employees of the Department of Defense” wherever appearing.