

Subpart H—Nuclear Materials Couriers

SOURCE: 65 FR 2522, Jan. 18, 2000, unless otherwise noted.

§ 831.801 Applicability and purpose.

(a) This subpart contains regulations of the Office of Personnel Management (OPM) to supplement 5 U.S.C. 8336(c), which establishes special retirement eligibility for nuclear materials couriers employed under the Civil Service Retirement System; 5 U.S.C. 8334(a)(1) and (c), pertaining to deductions, contributions, and deposits; 5 U.S.C. 8335(b), pertaining to mandatory retirement; and 5 U.S.C. 8339(d), pertaining to computation of annuity.

(b) The regulations in this subpart are issued pursuant to the authority given to OPM in 5 U.S.C. 8347 to prescribe regulations to carry out 5 U.S.C., chapter 83, subchapter III, and in 5 U.S.C. 1104 to delegate authority for personnel management to the heads of agencies.

§ 831.802 Definitions.

In this subpart—

Agency head means the Secretary of Energy. For purposes of this subpart, *agency head* is also deemed to include the designated representative of the Secretary of Energy, except that the designated representative must be a department headquarters-level official who reports directly to the Secretary of Energy, or to the Deputy Secretary of Energy, and who is the sole such representative for the entire department.

Nuclear materials courier means an employee of the Department of Energy, the duties of whose position are primarily to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapon components, strategic quantities of special nuclear materials or other materials related to national security, including an employee engaged in this activity who is transferred directly to a supervisory or administrative position within the same Department of Energy organization, after performing this activity for at least 3 years. (See 5 U.S.C. 8331(27).)

Primary duties are those duties of a position that—

(1)(i) Are paramount in influence or weight; that is, constitute the basic reasons for the existence of the position;

(ii) Occupy a substantial portion of the individual's working time over a typical work cycle; and

(iii) Are assigned on a regular and recurring basis.

(2) Duties that are of an emergency, incidental, or temporary nature cannot be considered *primary* even if they meet the substantial portion of time criterion. In general, if an employee spends an average of at least 50 percent of his or her time performing a duty or group of duties, they are his or her primary duties.

Primary position means a position that is in an organization of the Department of Energy and whose primary duties are to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapon components, strategic quantities of special nuclear materials or other materials related to national security.

Secondary position means a position that:

(1) Is clearly in the nuclear materials transportation field;

(2) Is in an organization of the Department of Energy having a nuclear materials transportation mission; and

(3) Is either—

(i) Supervisory; i.e., a position whose primary duties are as a first-level supervisor of nuclear materials couriers in primary positions; or

(ii) Administrative; i.e., an executive, managerial, technical, semiprofessional, or professional position for which experience in a primary nuclear materials courier position is a prerequisite.

§ 831.803 Conditions for coverage in primary positions.

(a) An employee's service in a position that has been determined by the Secretary of the Department of Energy to be a primary nuclear materials courier position is covered under the provisions of 5 U.S.C. 8336(c).

(b) An employee who is not in a primary position, nor covered while in a secondary position, and who is detailed or temporarily promoted to a primary