

§ 842.903

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 means 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; that is, a position whose primary duties are as a first-level supervisor of nuclear materials couriers in primary positions; or
 - (ii) Administrative; that is, an executive, managerial, technical, semiprofessional, or professional position for which experience in a primary nuclear materials courier position is a prerequisite.

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§ 842.903 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. 8412(d).

(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 position is not covered under the provisions of 5 U.S.C. 8412(d).

§ 842.904 Conditions for coverage in secondary positions.

(a) An employee's service in a position that has been determined by the Secretary of the Department of Energy to be a secondary nuclear materials courier position following 3 years of service in a primary nuclear materials courier position is covered under the provisions of 5 U.S.C. 8412(d) if all of the following criteria are met:

(1) The employee is transferred directly (i.e., without a break in service exceeding 3 days) from a primary position to a secondary position; and

(2) If applicable, the employee has been continuously employed in secondary positions since transferring from a primary position without a break in service exceeding 3 days, except that a break in employment in secondary positions which begins with an involuntary separation (not for cause), within the meaning of 5 U.S.C. 8414(b)(1)(A), is not considered in determining whether the service in secondary positions is continuous for this purpose.

(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 secondary position is not covered under the provisions of 5 U.S.C. 8412(d).

§ 842.905 Evidence.

(a) The Secretary of Energy's determination under § 842.903 that a position is a primary position must be based solely on the official position description of the position in question, and any other official description of duties