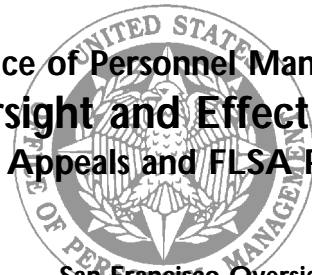


U.S. Office of Personnel Management
Office of Merit Systems Oversight and Effectiveness
Classification Appeals and FLSA Programs



San Francisco Oversight Division
120 Howard Street, Room 760
San Francisco, CA 94105

Classification Appeal Decision
Under Section 5112 of Title 5, United States Code

Appellant: [The appellant]

Agency classification: Environmental Protection Specialist
GS-028-12

Organization: [The appellant's installation]
Department of the Army

OPM decision: Environmental Protection Specialist
GS-028-11

OPM decision number: C-0028-11-02

Carlos A. Torrico
Classification Appeals Officer

November 4, 1999
Date

As provided in section 511.612 of title 5, Code of Federal Regulations (CFR), this decision constitutes a certificate that is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the government. The agency is responsible for reviewing its classification decisions for identical, similar, or related positions to ensure consistency with this decision. There is no right of further appeal. This decision is subject to discretionary review only under conditions and time limits specified in the Introduction to the Position Classification Standards, appendix 4, section G (address provided in appendix 4, section H).

Since this decision lowers the grade of the appealed position, it is to be effective no later than the beginning of the sixth pay period after the date of this decision, as permitted by 5 CFR 511.702. The servicing personnel office must submit a compliance report containing the corrected position description and a Standard Form 50 showing the personnel action taken. The report must be submitted within 30 days from the effective date of the personnel action.

The personnel office must also determine if the appellant is entitled to grade or pay retention, or both, under 5 U.S.C. 5362 and 5363 and 5 CFR 536. If the appellant is entitled to grade retention, the two-year retention period begins on the date this decision is implemented.

Decision sent to:

[The appellant's address]

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Introduction

On September 29, 1998, the San Francisco Oversight Division of the U.S. Office of Personnel Management (OPM) received a classification appeal from [the appellant]. His position is currently classified as Environmental Protection Specialist, GS-028-12. However, he believes it should be classified to either the Hydrology Series, GS-1315 or the General Physical Sciences Series, GS-1301, titled District Environmental Compliance Coordinator, Physical Scientist, and graded at the GS-13 level. The Department of Defense issued a revised, final classification appeal decision on [the appellant's] internal appeal on March 2, 1999, downgrading his position to GS-11. Implementation of that decision was suspended by the agency contingent on adjudication of [the appellant's] pending appeal by OPM. The appellant works in the [appellant's installation], Department of the Army. We have accepted and decided his appeal under section 5112 of title 5, United States Code (U.S.C.).

General issues

The appellant compares his position to several GS-13 positions. By law we must classify positions solely by comparing their current duties and responsibilities to OPM standards and guidelines (5 U.S.C. 5106, 5107, and 5112). Since comparison to standards is the exclusive method for classifying positions, we cannot compare the appellant's position to other similar jobs or position descriptions as a basis for deciding his appeal.

The appellant makes various statements about his agency and its evaluation of his position. In adjudicating this appeal, our only concern is to make our own independent decision on the proper classification of his position. By law, we must make that decision solely by comparing his current duties and responsibilities to OPM standards and guidelines. Therefore, we have considered the appellant's statements only insofar as they are relevant to making that comparison.

In reaching our classification decision, we have carefully reviewed all information furnished by the appellant and his agency, including his official position description (PD) number 98016. Both a telephone audit and an onsite audit were conducted with the appellant by an OPM representative, and the appellant's supervisor was also interviewed. Both the appellant and his supervisor have certified to the accuracy of the appellant's official position description. However, our review disclosed that factors six and seven do not accurately reflect his personal contacts and the purpose of contacts, and factors eight and nine do not accurately reflect the physical demands and the work environment. However, the agency's March 2, 1999 suspended classification decision agrees with our determinations for factors eight and nine. Our findings for these factors are discussed in the "Grade determination" section of this evaluation. The agency should correct the position description to reflect those findings.

Position information

The major responsibility of the appellant's position is to assure that all facilities and associated lands within the [installation] meet environmental standards. He serves as the point of contact and

expert consultant for all compliance, implementation, inspection, auditing, monitoring, and reporting responsibilities for environmental compliance, Environmental Review Guide for Operations (ERGO) and hazardous and toxic waste (HTW) concerns. He provides staff guidance and advice to ensure consistent, effective, and efficient implementation of Federal, State, and local environmental requirements. The audit and other material of record furnish much more information about his duties and responsibilities and how they are performed.

Series, title, and standard determination

The appellant believes his position is covered by either the Hydrology Series, GS-1315 or the General Physical Sciences Series, GS-1301, titled [installation] Environmental Compliance Coordinator, Physical Scientist, and graded using the Job Family Standard for Professional Physical Science Work, GS-1300 (dated October, 1997, and reissued in HRCD-6, dated January 1999). He argues that his position demands expert and professional scientific and/or engineering knowledge. The appellant further states that he feels his position is excluded from the Environmental Protection Specialist Series, GS-028, because the standard excludes positions that require professional knowledge and competence in the broad, multidisciplinary field of environmental science, which encompasses chemistry, biology, toxicology, health, physics, safety, and related areas.

Both the Hydrology and General Physical Sciences Series are professional series. According to the Classifier's Handbook, dated August 1991, page 37, positions can be considered professional only if the work requires application of professional knowledge and ability. Neither the desirability of such qualifications nor the appellant's possession of them is a factor in determining the series.

While the appellant possesses professional knowledge and ability, our audit determined, and the appellant's supervisor confirmed, that the duties described in the appellant's PD and performed by the appellant do not require the application of professional knowledge and ability. Since the appellant's position does not require the application of professional knowledge and skills, it cannot be classified in either the Hydrology Series, GS-1315 or the General Physical Sciences Series, GS-1301. For these same reasons, the appellant's position is not excluded from the Environmental Protection Specialist Series, GS-028.

The appellant's position requires the application of specialized knowledge of the principles and methods of administering environmental protection programs and the laws and regulations related to environmental protection activities as described in the classification standard for the Environmental Protection Specialist Series, GS-028 (dated March, 1995, and reissued in HRCD-6, dated January 1999). We find that the appellant's position is properly covered by the Environmental Protection Specialist Series, GS-028, titled Environmental Protection Specialist, and graded using the GS-028 classification standard.

Grade determination

The classification standard for the Environmental Protection Specialist Series, GS-028, is written in the Factor Evaluation System (FES), which employs nine factors. Under the FES, each factor level description in a standard describes the minimum characteristics needed to receive credit for the described level. Therefore, if a position fails to meet the criteria in a factor level description in any significant aspect, it must be credited at a lower level. Conversely, the position may exceed those criteria in some aspects and still not be credited at a higher level.

Our evaluation with respect to the nine FES factors follows.

Factor 1, Knowledge required by the position — Level 1-7 — 1250 points

The agency evaluated this factor at Level 1-7 and the appellant does not disagree.

This factor measures the nature and extent of information or facts the environmental protection specialist must understand to do acceptable work and the nature and extent of skill necessary to apply this knowledge. To be used as a basis for selecting a level under this factor, knowledge must be required and applied.

The appellant's position meets Level 1-7. Comparable to Level 1-7 described on pages 8-10 of the GS-028 standard, the appellant's work requires knowledge of program principles and procedures applicable to a wide range of duties in one or more program and/or functional areas. The appellant's areas of concern include air emissions; hazardous materials management; hazardous waste management; petroleum/oil/lubricants management; solid waste management; special pollutants such as radium, asbestos, PCB's and noise; toxic substances management; pesticide management; underground storage tanks; waste water management; and water quality monitoring. The appellant applies this knowledge to perform inspections and oversight activities. Like Level 1-7, methods and procedures require frequent redefinition and modification as environmental protection laws are continually being established and updated with more stringent requirements. For example, when the Clean Air Act was revised to encompass the ozone layer, the appellant was charged with determining which chemicals in use in the [installation] were contaminants and substituting them with alternative chemicals and disposing of the contaminants.

At Level 1-7 the work requires knowledge of statutes, regulations, licensing/permitting requirements, and precedent decisions governing environmental operations sufficient to use in planning, implementing or monitoring environmental programs and services. Likewise, the appellant's work requires that he understand and apply a myriad of both Federal, State, and local environmental protection laws and regulations. In addition, as required at Level 1-7, the appellant's work requires management, administration, and coordination knowledge and skill to provide advisory, reviewing, evaluating, educating and/or training, negotiating, or problem solving services on specific problems, projects, programs or functions.

The appellant's work does not require Level 1-8 knowledge (described on pages 11-12 of the standard). The appellant is not required to make decisions or recommendations significantly changing, interpreting, or expanding important agency/national policies and programs which would require expert knowledge of Federal, State and local laws and regulations, documentation and reporting requirements, and lawmaking or rule making processes. We found no indication either in the record or during our audit that the appellant's position would require the level of expertise described at Level 1-8.

This factor is evaluated at Level 1-7 and 1250 points are credited.

Factor 2, Supervisory controls — Level 2-4 — 450 points

This factor covers the nature and extent of direct or indirect controls exercised by the supervisor, the employee's responsibility, and the review of completed work.

The appellant's position meets and somewhat exceeds Level 2-4 as described on page 13 of the GS-028 standard. As at Level 2-4, the appellant has continuing responsibility for independently planning and carrying out important environmental protection programs or projects. The appellant determines the approach to be taken and the methods to be used. He resolves most of the conflicts that arise, and coordinates the work with others as necessary.

The appellant states that his work meets Level 2-5 (page 13) because of the independent nature of the position, the long-range impact of his decisions, his direct communications and autonomy in providing expert opinion and counsel to other [the installation] elements, and that review of his work is not of a technical nature. While the appellant's work may exceed Level 2-4 in some ways, these aspects of his work fit well within the description of Level 2-4 as described above. His work does not meet the minimum level described for Level 2-5. For instance, at Level 2-5 the specialist has complete responsibility for major programs, projects, or studies where the completed work is reviewed by management officials only for potential influence on broad agency policy and program goals. The appellant's assignments are reviewed by management officials primarily for their impact on [the installation] policy and program goals. His assignments do not typically have agency-wide policy or program impact, fulfill program objectives, or contribute to the advancement of knowledge in the field as expected at Level 2-5.

This factor is evaluated at Level 2-4 and 450 points are credited.

Factor 3, Guidelines - Level 3-4 - 450 points

This factor covers the nature of guidelines and the judgment necessary to apply them.

The agency evaluated this factor at Level 3-4 and the appellant does not disagree.

As described at Level 3-4 on page 14 of the GS-028 standard, the appellant's guidelines include administrative policies and precedents, laws, regional or area directives, agency regulations, and scientific and technical references. In addition, the appellant uses initiative and resourcefulness in deviating from, refining, or extending traditional methods and practices, or in developing new or substantially modified methods, criteria, or policies.

Similar to Level 3-5 (page 14), the appellant uses judgment and discretion in determining the intent and in interpreting and revising existing policy and regulatory guidance for use by others within the [installation]. However, the appellant's work does not fully meet Level 3-5. This level encompasses positions found at higher organizational levels within an agency than the appellant's job, and is awarded when the specialist is recognized as an authority in the development and/or interpretation of guidance on environmental planning and administration in one or more national programs or functional areas. The record does not reflect that the appellant develops or interprets guidance concerning a national program.

This factor is assigned Level 3-4 and 450 points are credited.

Factor 4, Complexity - Level 4-4 - 225 points

This factor covers the nature, number, variety, and intricacy of tasks, steps, processes, or methods, in the work performed; the difficulty in identifying what needs to be done; and the difficulty and originality involved in performing the work.

The appellant's work best meets Level 4-4. As described on pages 15 and 16 of the GS-028 standard, at Level 4-4 the work typically involves full responsibility for well-established aspects of one or more programs and/or functional areas. For example, the appellant serves as the [the installation] ECC, the ERGO, the Hazardous and Toxic Waste Program Manager, [installation] Environmental Response Team Manager, Environmental Compliance Training Program Manager, and Hazardous Materials Program Manager. The work includes a wide variety of duties involving diverse and complex technical and/or program or administrative problems and considerations. Similar to the examples provided in the standard, the appellant plans, develops, implements, analyzes, and evaluates the environmental program, refining existing criteria and sometimes modifying conventional methods and techniques to increase efficiency and effectiveness.

The appellant's work does not meet Level 4-5 (pages 17-18). At Level 4-5 the work involves a number of facilities, sites, programs, etc. such as a variety of complex industrial and commercial establishments throughout a multi-state area or intensive analysis and problem solving (as a recognized expert) in a program or functional area. Positions at this level deal with many different and unrelated processes and methods. While the appellant serves as an expert consultant within his [installation] and is recognized as an expert in spill planning and response, his position does not typically reach throughout a multi-state area. The appellant does not devise new methods and techniques; establish criteria for administering or evaluating environmental programs; nor

does he develop policy guidance and procedural material for use by operating personnel at the level envisioned by the standard.

This factor is evaluated at Level 4-4 and 225 points are assigned.

Factor 5, Scope and Effect - Level 5-3 - 150 points

This factor covers the relationship between the nature of the work; i.e., the purpose, breadth, and depth of the assignment, and the effect of the work products or services both within and outside the organization.

The appellant's position fully meets Level 5-3 (pages 18-19), and in some aspects approaches Level 5-4 (page 19). Like Level 5-3, he plans and carries out a variety of routine projects and program activities to ensure compliance with environmental laws and regulations. In addition, similar to Level 5-4 his work includes developing and implementing guidance and procedures to ensure environmental compliance for [the installation's] projects. However, the appellant's work does not meet Level 5-4 with respect to effect. At Level 5-4, the work directly influences the effectiveness and acceptability of total environmental protection systems and/or programs affecting a wide range of agency activities, major activities of industrial or commercial concerns, or the operation of other agencies. The appellant's work directly influences the effectiveness and acceptability of the environmental protection system/program for the [installation]. The [installation] is a component of an agency; however, it is not comparable to an agency (e.g., Department of the Army). Thus his work does not directly influence the effectiveness and acceptability of total environmental protection systems and/or programs of the agency or major industrial activities, or the operation of other agencies as described above. The appellant's work does not fully meet Level 5-4, therefore the next lower level, Level 5-3, must be awarded.

This factor is evaluated at Level 5-3 and 150 points are credited.

Factor 6, Personal Contacts & Factor 7, Purpose of Contacts - Levels 6-2/7-b - 75 points

Factor 6 covers the people and conditions or settings under which contacts are made. It includes face-to-face contacts and telephone and radio dialogue with persons not in the supervisory chain.

The appellant's personal contacts are evaluated at Level 6-2 (page 20). Similar to that level, his contacts are primarily in the same agency, but outside the immediate office. As is typical at this level, his contacts are with project managers, engineers, chemists, lawyers, contracting officers, service contract representatives, and professional and technical employees from other areas of the installation or agency or in State or local environmental agencies or regulated facilities.

The appellant's position does not reach Level 6-3 (page 20). At that level contacts are primarily with persons outside the employing agency in a moderately unstructured setting. The appellant does occasionally have contact with a variety of persons outside the employing agency such as

employees of the Environmental Protection Agency, the Oregon Department of Environmental Quality, the Coast Guard, Native American Tribes, and contractors. However, his primary and recurring contacts are with people within his agency such as the [installation head], Project Environmental Compliance Coordinators, Operations Project Managers, Office of Counsel, Planners and Engineers, and other agency employees involved with hazardous and toxic materials. Further, the appellant's contacts are not typically on an ad hoc basis and his role is well established.

Factor 7 covers the reasons for the contacts described in Factor 6.

Factor 7 is evaluated at Level 7-b (page 20). As at Level 7-b, the appellant's contacts are to plan or coordinate work efforts or to resolve operating problems by influencing or motivating individuals or groups who are working toward mutual goals and who have basically cooperative attitudes. The appellant's contacts are primarily for the purpose of providing guidance, interpretation of regulations, advice and assistance. Additionally, contacts provide for program coordination and implementation.

Level 7-c is not met. At Level 7-c (pages 20-21) the primary purpose of contacts is to influence, motivate, or persuade persons or groups who are typically skeptical, resistant, or uncooperative, and who must be approached skillfully to obtain the desired effect. While the appellant may on occasion have contact with persons or groups like this, his contacts are typically with persons or groups who are working toward mutual goals and have basically cooperative attitudes.

Factors 6 is evaluated at Level 6-2 and Factor 7 is evaluated at Level 7-b and 75 points are credited.

Factor 8, Physical Demands - Level 8-1 - 5 points

This factor covers the requirements and physical demands placed on the Environmental Protection Specialist by the work assignment.

The physical demands on the appellant meet Level 8-1 (page 21) as the work is primarily sedentary. The appellant's work does not meet Level 8-2 (page 21). We recognize that the appellant's work as the team leader of the [the installation] Environmental Response Team requires passing an annual hazmat physical, wearing personal protective equipment at least two days per year and participating in or leading hazardous waste cleanup operations. However, in order to meet Level 8-2 the work must require regular and recurring physical exertion and the appellant's work only requires occasional physical exertion such as prolonged standing, bending, and stooping to observe work operations as described at the higher level.

This factor is evaluated at Level 8-1 and 5 points are credited.

Factor 9, Work Environment - Level 9-1 - 5 points

This factor considers the risks and discomforts that may be imposed upon employees by various physical surroundings or job situations.

The appellant's work environment is evaluated at Level 9-1 (page 21). It normally involves everyday risks or discomforts that require normal safety precautions typical of such places as offices, training rooms, and libraries. The work area is primarily adequately lighted, heated, and ventilated.

The work falls short of meeting Level 9-2 (page 21). Our fact-finding revealed that he is only occasionally exposed to moderate risks or discomforts requiring special safety precautions typical of the higher level. Because the position does not involve regular and recurring exposure to moderate risks or discomforts requiring special safety precautions, Level 9-2 is not credited.

This factor is evaluated at level 9-1 and 5 points are credited.

Summary

In summary, we have evaluated the appellant's work as follows:

Factor		Level	Points
1.	Knowledge required by the position	1-7	1,250
2.	Supervisory controls	2-4	450
3.	Guidelines	3-4	450
4.	Complexity	4-4	225
5.	Scope and effect	5-3	150
6.	Personal contacts	6-2	75
7.	Purpose of contacts	7-b	
8.	Physical demands	8-1	5
9.	Work environment	9-1	5
Total Points:			2,610

A total of 2,610 points falls into the GS-11 range (2,355 - 2,750) on the grade conversion table found on page 6 of the GS-028 standard.

Decision

The appellant's position is properly classified as Environmental Protection Specialist, GS-028-11.