

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

Philadelphia Oversight Division  
600 Arch Street, Room 3400  
Philadelphia, PA 19106-1596

**Classification Appeal Decision**  
**Under section 5112 of title 5, United States Code**

**Appellant:** [appellant's name]

**Agency classification:** Environmental Protection Specialist  
GS-028-9

**Organization:** Office of the Telecommunications  
Manager  
[activity name]  
([acronym])  
[acronym] Detachment [name]  
Department of the Navy  
[location]

**OPM decision:** Environmental Protection Specialist  
GS-028-9

**OPM decision number:** C-0028-09-01

/s/ Robert D. Hendler

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Robert D. Hendler  
Classification Appeals Officer

October 29, 2002

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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* (PCS's), appendix 4, section G (address provided in appendix 4, section H).

**Decision sent to:**

[appellant's name]

[appellant's address]

Director, Human Resources Office

Department of the Navy

[address]

[activity]

[location]

Director

Office of Civilian Human Resources

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## **Introduction**

On May 14, 2002, the Philadelphia Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant's name]. In an appeal decision dated April 17, 2002, the Defense Civilian Personnel Management Service downgraded the appellant's position from Environmental Engineer, GS-819-10, to Environmental Protection Specialist, GS-028-9. The appellant believes the classification should be Environmental Engineer, GS-819-12. We received the initial appeal administrative report on July 15, 2002. The position is in the Office of the Telecommunications Manager, [activity name] ([acronym]), [acronym] Detachment ([acronym], [location]), Department of the Navy, [location]. We have accepted and decided his appeal under title 5, United States Code (U.S.C.), section 5112.

## **General issues**

In his May 6, 2002, letter, the appellant stated that he wished to appeal the series of his position on the grounds that his supervisor had the responsibility to assign work in accordance with his position description (PD) and that he should not be penalized for his supervisor's failure to fully utilize his professional skills and abilities. He said that his appeal should be based on the PD in effect since July 2000 (PD #[number] classified as Environmental Engineer, GS-819-10) rather than a scope of work based on the supervisor's perception of the actual demands of the position. He provided work samples which he believes support his rationale that he is performing GS-819 work at the GS-12 grade level. The appellant also described the events that led to his filing his appeal with OPM.

In his May 22, 2002, letter and its enclosure, the appellant questioned the methodology used by the agency in adjudicating his appeal. He stated that his agency did not use his PD to analyze his appeal and did not properly reference appeal decisions from OPM's Web site. In his letter of June 6, 2002, the appellant stated that he disagreed with the content and intent of the redescribed PD (PD #[number] classified as Environmental Protection Specialist, GS-028-9) prepared as the result of his agency appeal. In an enclosure to that letter, the appellant stated that he had assumed all of the environmental responsibilities removed from a General Engineer, GS-801-11, position at the detachment and that his PD contained all the responsibilities in his former Environmental Engineer, GS-819-12, position that he occupied prior to a reorganization that resulted in his placement in the Environmental Engineer, GS-819-10, position.

By law, we must classify positions solely by comparing their current duties and responsibilities to OPM PCS's and guidelines (5 U.S.C. 5106, 5107, and 5112). Other methods or factors of evaluation are not authorized for use in determining the classification of a position, such as comparison to positions that may or may not have been properly classified, e.g., positions previously occupied by the appellant or currently occupied by other employees, the amount of money that the appellant has saved his agency by performing work himself rather than hiring outside consultants, or the terms of contracts that require the seal of a professional engineer. We will consider the appellant's information only insofar as it assists us in ascertaining the appellant's current duties and responsibilities. Instructions on the OPM web site state that the classification appeal decisions posted do not substitute for or add to position classification or job grading standards and guides and are not "case law." In addition to the prohibition on position-to-position comparison, the instructions state that the decisions do not provide enough

information for direct application in the classification of other positions. Therefore, the OPM appeal decisions discussed in the record may not be considered in our adjudication of his appeal.

Agency management has certified that the appellant's current PD of record is accurate. However, implicit in the appellant's rationale is that he is performing the duties and responsibilities in a GS-819-12 position that he previously occupied. A PD is the official record of the major duties and responsibilities assigned to a position by an official with the authority to assign work. A position is the duties and responsibilities that make up the work performed by an employee. Position classification appeal regulations permit OPM to investigate or audit a position and decide an appeal on the basis of the actual duties and responsibilities assigned by management and performed by the employee. An OPM appeal decision grades a real operating position and not simply the PD. Therefore, this decision is based on the actual work assigned to and performed by the appellant and sets aside all previous agency decisions.

The appellant's rationale raises questions about management's authority to assign work, e.g., moving work from a position in the detachment residual workforce of inherently governmental work to a position in the detachment most efficient organization workforce that can be contracted out. By law, agency management has the authority to determine the work assignable to positions and employees (5 U.S.C. 5102(a)(3) and 7106(a)(2)(B)). Therefore, this issue is not germane to or reviewable by the classification appeals process.

### **Position information**

The appellant works at a station with approximately 85 civilian positions. The mission of the detachment is to operate very low frequency and high frequency antennas that provide command and control communications to operating units of the Department of the Navy. The activity runs a power plant that uses diesel turbines to generate electricity used to operate the antennas. Approximately 29 positions perform security guard and firefighter work, 21 positions perform power plant operations and maintenance, and 25 positions support antenna operations. The remaining positions perform a variety of program and installation support functions.

While they differ in percentages of time spent on specific duties, the appellant's current and former PD's of record describe the same basic functional areas of responsibility for the detachment environmental and related programs including hazardous materials control and management. The appellant's current PD of record does not include the facilities engineering function described in PD #[number], and the appellant confirmed that he is not being assigned this work.

The appellant operates the detachment environmental program. His functions include preparing, maintaining, and executing the Environmental Protection and Compliance Plan, including procedures for spill response, disposal of hazardous substances, and documentation of environmental compliance. He provides internal guidance on environmental issues and interpretation of environmental regulations, laws, standards, and policies and manages and updates environmental permits. The appellant develops and implements the detachment natural resources management program and reviews project plans and actions to ensure compliance with the National Environmental Policy Act.

He manages day-to-day environmental program operations. This includes running the asbestos and hazardous waste program and functioning as the on-scene commander of oil or hazardous material spills. The PD states that the appellant is responsible for the cleanup of abandoned landfills and material staging areas which includes monitoring the progress of the cleanup, coordinating with the Naval Computer and Telecommunications Master Station Atlantic environmental organization, the [State] Department of Environmental Protection (DEP), the Naval Facilities Engineering Command (NAVFAC), the U.S. Environmental Protection Agency (EPA), and all others who may be involved with the cleanup process. He coordinates restoration projects with, prepares environmental reports for, and responds to data calls as directed by [acronym]. These duties are described as occupying 75 percent of the appellant's work time.

The PD states that the appellant spends the remaining 25 percent of his time on hazardous material control and management. This includes gathering information from the Hazardous Material Information System (HMIS) to ensure proper handling and storage of materials and identify chemical hazards with the corresponding Material Safety Data Sheet; providing technical expertise in such areas as identifying chemical constituents in hazardous substances; receiving hazardous materials into the Consolidated Hazardous Reutilization Inventory Management Program (CHRIMP) warehouse and properly segregating, labeling, storing, and tracking all containers; issuing hazardous materials to detachment work centers, and training personnel on storage, handling, and use; maintaining cradle-to-grave tracking of all containers, ensuring their proper return to the CHRIMP area, and maintaining the base authorized use list; maintaining a Hazardous Material Minimization Center using HMIS and Hazardous Substance Management System (HSMS) software; and entering hazardous material, hazardous waste, and reuse data into HSMS daily.

We conducted telephone audits with the appellant on October 3 and 4, 2002, follow-up conversations that same month, and a telephone interview with the appellant's supervisor, [name], on October 10. To clarify information in the record, we conducted telephone interviews with [name], Facilities Officer, [acronym]; with [two names], engineers in the NAVFAC Engineering Field Activity [location], and staff members of the [State] DEP and Professional Engineers Registration Board. Based on the analysis which follows, we find that the PD of record contains the major duties and responsibilities assigned by management and performed by the appellant. In deciding this appeal, we fully considered the audit and interview findings and all information of record furnished by the appellant and his agency, including his official PD which we incorporate by reference into this decision.

### **Series, title, and standard determination**

The agency has classified the position to the Environmental Protection Specialist Series, GS-028, because the appellant's responsibilities are primarily to ensure environmental compliance and the work does not require the skills and knowledge of a professional engineer. The appellant disagrees. He points to his supervisor's citation of his doctorate in program correspondence, his activity's use of his professional engineering registration when submitting a thermal study and other correspondence to obtain a State Waste Discharge License, his asbestos abatement design responsibilities, and State requirements for professional registration to perform and submit this work in support of his rationale. The appellant states that his supervisor had full knowledge that he was performing as a professional engineer and putting his seal on these projects. He says that

engineers he has contacted said that they normally put their seal on those types of products to remove any question about their meeting State DEP regulatory requirements.

The appellant provided copies of State regulations which show that design and installation of engineered wastewater treatment systems and closure of hazardous waste sites require certifications by a State licensed engineer. He states that although Federal employees engaged in the practice of the profession of engineering in the State are not required to have a [State] registration, they are still engaged in the practice of professional engineering. He provided a copy of his 1995 certification as a professional engineer of the detachment Pollution Prevention Plan in support of his functioning in that capacity and stated that a professional engineer must revise and certify the plan every five years.

The General Schedule (GS) classification system recognizes that some duties are performed by positions in multiple occupations. Safety and Occupational Health Specialists, GS-018, Environmental Protection Specialists, GS-028, Engineering Technicians, GS-802, Industrial Hygienists, GS-690, Safety Engineers, GS-803, and Environmental Engineers GS-819, oversee and/or plan asbestos abatement work. The proper series is determined based on the paramount qualifications required, sources of recruitment and line of progression, the reason for establishing the position, and the background knowledge required. A position can be considered professional only if the work requires application of professional knowledge and ability. The desirability of professional qualifications or the employee's possession of them does not control this determination. Possession of professional qualifications must be a continuing requirement of the work; i.e., work that is regular and recurring within the meaning of the position classification process.

Each position performs a part of the mission of the organization in which it is located. The positions created to perform the assigned mission must be considered in relation to one another. Under the current [acronym] structure, the detachment does not function as a fully independent installation. The [acronym] Facilities Department manages the environmental and hazardous wastes programs for itself and its subordinate detachments. Navy regulations (OPNAV 5090.1B CH-2, September 1999) vest NAVFAC with primary environmental program responsibility. For example, an activity is expected to discover and notify NAVFAC of potential Installation Restoration (IR) sites. However, NAVFAC is responsible for such actions as preliminary assessments, site inspection, remedial investigation, and feasibility studies. When restoration contracts are let, NAVFAC manages the contract. Activity staff is expected to function as NAVFAC's "eyes and ears." They provide technical information about activity operations, storage and disposal sites, and comment on NAVFAC and contractor plans, and perform some day-to-day liaison duties with the EPA and State agencies. Although the appellant is not currently performing the full scope of typical liaison work, he does sign waste manifests for contaminated material removed from the IR site.

The appellant has pointed to projects for which he has used his professional engineer seal. However, these projects are intermittent and cannot be construed as regular and recurring work within the meaning of the position classification process. For example, the appellant stated that the Pollution Prevention Plan must be revised every five years and signed by a registered professional engineer. The thermal study that he performed was part of a periodic (five-year) wastewater permit renewal process. The detachment's air emissions license also must be

renewed every five years. Although the processes performed for these projects are performed by professional engineers, they can also be performed by other technically trained personnel. For example, engineering technicians and similarly trained personnel can perform thermal and other studies using conventional methods and techniques. Navy instructions and State law do not require that the Pollution Prevention Plan be signed by a registered professional engineer. State DEP personnel advised us that departmental regulations do not require that the detachment's wastewater or air emissions license applications be prepared or signed by a registered engineer. The appellant pointed to his functioning as a State-certified asbestos abatement design consultant. State regulations permit certification based on either professional education or possession of any valid asbestos certificate, excluding asbestos abatement worker, for three years. Therefore, we cannot conclude that the appellant's position requires the regular and recurring application of professional engineering qualifications as stated by the appellant.

The appellant's primary and paramount responsibilities involve operating the detachment environmental and related programs which are covered by Environmental Protection Specialist Series, GS-028, for which there is a published PCS. Typical of that series, the appellant's work requires specialized knowledge of the principles and methods of administering environmental protection programs and the laws and regulations related to environmental protection activities. Environmental protection programs deal with such areas as air and water quality, hazardous waste and materials management, underground storage tanks containing regulated substances, oil and hazardous substance spill planning, nonhazardous waste management, and site restoration and remediation. The work requires a practical knowledge of environmental sciences and related disciplines, the effects of actions and technology on the environment, the means of preventing or reducing pollution, and the relationship between environmental factors and human health and well-being. The work also requires a practical knowledge of important historic, cultural, and natural resources including land, vegetation, fish, wildlife, endangered species and forests, and the relationship between the preservation and management of these resources and environmental protection. Therefore, the position is allocated properly as Environmental Protection Specialist, GS-028.

### **Grade determination**

The GS-028 PCS is in Factor Evaluation System (FES) format. Under the FES, positions are evaluated by comparing the duties, responsibilities, and qualifications required with nine factors common to nonsupervisory GS positions. A point value is assigned to each factor in accordance with the factor level descriptions. For each factor, the full intent of the level must be met to credit the points for that level. The total points assigned for the nine factors are converted to a grade by reference to the grade conversion table in the PCS.

#### *Factor 1, Knowledge required by the position*

This factor measures the nature and extent of information or facts that an employee must understand to do acceptable work and the nature and extent of the skills necessary to apply that knowledge.

The appellant disagrees with his agency's crediting of Level 1-6. He states that his responsibilities for ensuring compliance with the Clean Air Act, Clean Water Act, and Asbestos

Management program and his independent responsibility for the reporting requirements for power plant and other detachment operations support Level 1-7. Although not directly stated in his comments on this factor, the appellant bases much of his rationale on his opinion that licensed professional engineering work is inherently complex. We will address under Factor 2 the appellant's references to the supervision that he receives.

As discussed previously, the record does not show that the appellant's regular and recurring work requires the application of professional engineering knowledge. Classification to a professional engineering occupation does not have an automatic impact on grade level. OPM PCS's for professional engineering occupations describe work at a variety of grade levels. For example, the GS-819 Environmental Engineering Series PCS contains a full-performance level GS-9 benchmark in which the engineer develops designs for wastewater treatment facilities, pumping stations, and similar facilities based on the application of environmental engineering concepts and principles and a practical knowledge of conventional methods and practices to complete relatively routine design projects or portions of large, complex projects.

Information from the State DEP revealed that the detachment's power plant is viewed as a small-scale reporting facility, e.g., the stacks do not require continuous monitoring. Detachment operations use a range of oils, lubricants, other petrochemical and equivalent industrial materials typical of self-contained power plant and related industrial operations. The knowledge required to gather information for and to conduct environmental oversight of these operations, including licensing requirements, meets Level 1-6. The activities performed by the appellant are conducted within a well-established regulatory framework. Standard and conventional procedures and techniques apply to most situations encountered.

Detachment operating conditions compare closely to illustrations at Level 1-6 in the PCS. They include: (1) evaluating and recommending action on permits for projects that involve routine changes to waterway or shoreline use by conducting site inspections to make wetland determinations and gather information on conditions and potential mitigation measures; conducting public interest reviews (prepares public notices, responds to questions, coordinates public hearings); coordinating activities with other Federal and State agencies; and recommending issuance or denial of permits; (2) functioning as a specialist overseeing the receipt and disposal of excess items from several military installations, ensuring that hazardous property is received, handled, stored, inspected, documented, and manifested/disposed of in compliance with applicable environmental regulations and safety requirements; inspecting storage areas; providing technical guidance to personnel involved in the handling and disposal of hazardous materials and wastes (e.g., paints, varnishes, lacquers, solvents, fuels, and pesticides); and preparing required reports; or functioning as the contracting officer's representative overseeing comparable contractor disposal operations; and (3) conducting site inspections at hazardous waste disposal, transport, or storage facilities where the problems typically are easy to identify and conventional in nature; and evaluating work practices, determining compliance with applicable laws and regulations, and recommends changes to control or eliminate potential or existing hazards or violations. The appellant's environmental program field assessment and compliance planning functions require a level of knowledge and skill comparable to that described in the first illustration for Level 1-6. His hazardous materials, asbestos, pollution prevention, and related program functions are comparable to the second and third illustrations. Typical of Level 1-6, the appellant's thermal study was designed based on applying well-



established design criteria and data gathering techniques; i.e., identifying the proper points and times to measure water temperature to meet State defined requirements.

The appellant points to language at Level 1-7 which he believes that his position meets. For example, his 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 (e.g., determining needs, evaluating program effectiveness, assuring compliance with regulations). His work also requires management, administrative, or coordinative knowledge and skill sufficient to provide advisory, reviewing, evaluating, educating and/or training, negotiating, or problem-solving services (as a "troubleshooter," specialist, or coordinator) on specific problems, projects, programs, or functions. However, the appellant's work does not require application of the full scope of Level 1-7 skill and knowledge. His work does not require the breadth and depth of program knowledge and a high level of skill in applying this knowledge in solving complex problems involving diverse aspects of environmental protection, e.g., performing investigations, inspections, or oversight activities of greater than average difficulty, as in a new program or a program that is being redefined, where procedures require frequent modification and change in order to incorporate revised theories and techniques; modifying or adapting established methods and procedures or making significant departures from previous approaches to solve similar problems; revising standard methods to improve or extend environmental administration and/or management systems; and evaluating, modifying, or adapting new methods to meet the requirements of particular situations (e.g., developing, coordinating, reviewing, and evaluating the implementation of work plans, including estimates of staffing needs, equipment, and supplies, and detailed instructions necessary to carry out the plans, for complex long-term toxic waste cleanup projects).

Level 1-7 illustrations provide a context in which Level 1-7 skill and knowledge would be applied. The illustrations include: (1) managing the asbestos abatement, underground storage tank, solid waste management, and water and air quality management programs for a complex, multimission military installation located in a rapidly expanding urban area that is beginning to legislate environmental issues; developing and implementing plans to accomplish program goals, modifying policies and procedures to comply with frequent changes to applicable laws and regulations; providing technical advice and assistance to installation managers; conducting studies and surveys to identify problems and recommending modifications to operations or obtaining and overseeing outside contractors to complete projects; and developing and/or reviewing all environmental documentation relating to assigned program areas; and (2) planning, coordinating, directing, and evaluating an environmental quality program to protect and conserve tribal resources in a multistate area by providing technical oversight to environmental coordinators in field agencies that administer to the tribes and/or pueblos in the area; reviewing or coordinating the preparation of environmental documents for any project or activity that may impact on trust resources (e.g., new road or dam, waste incinerator, landfill, agricultural development, irrigation project, housing development, timber sales on land adjacent to the reservation, sand/gravel pit restoration, fertilizer plant, bingo hall, commercial development); developing procedural manuals and in-service training programs for agency and area personnel; advising agency and tribal officials on complex environmental issues; and monitoring compliance activities. The appellant works at a small activity with well-defined continuing operations. Asbestos remediation in detachment buildings, proper handling and storage of

petrochemicals for machinery lubrication and maintenance, and advising the small supervisory and employee staff on handling, storage, and disposal do not require deviating from established approaches or other equivalent demands found at Level 1-7. IR and other major cleanup projects, e.g., PCB contaminated paint requiring the application of knowledge and skill above Level 1-6 are assigned and performed by and/or overseen by NAVFAC. Therefore, this factor is credited at Level 1-6 (950 points).

### *Factor 2, Supervisory controls*

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

The appellant states that Level 2-5 should be credited since he receives only administrative direction from his supervisor, controls his own schedule, has his work accepted without significant change, and does not receive technical guidance from [acronym] personnel as stated in his agency appeal decision. Both Levels 2-4 and 2-5 describe positions of highly skilled personnel who carry out their work largely independently. At Level 2-4, the employee works within a program framework and receives project assignments. In contrast, Level 2-5 includes program authority with the employee responsible for designing the plans and strategies by which broad projects will be undertaken, including campaigns, projects, studies, or other major program functions. At Level 2-4, work receives some degree of technical review for feasibility of the program approach. In contrast, review at Level 2-5 is for broader considerations such as impact on the overall program and achieving the functional program's objectives.

Decisions made by employees under administrative direction at Level 2-5 are generally afforded the full weight of agency policy once they are implemented. In contrast, the appellant implements the policies, priorities, and procedures directed by higher level Navy and other organizations. Unlike Level 2-5, the appellant is not delegated responsibility for major programs, e.g., developing new or substantially revised Navy environmental programs to help installations achieve improved environmental legal and policy compliance. The appellant does not direct or control a staff or a budget. Information provided by the appellant shows that resource priorities are set by his supervisor. The appellant then implements those decisions and continuing functions at the operating level to achieve program objectives and priorities determined at higher echelons in the agency.

Although the appellant's supervisor does not provide technical guidance to the appellant, he is required to judge whether his performance meets defined goals. Technical supervision includes the responsibility of accepting or rejecting work. In the appellant's case, this includes determining how well his program efforts are meeting defined management needs. Level 2-4 recognizes that some employees are delegated significant operational authority and completed work is reviewed in terms of satisfying expected results of projects or assignments, responsiveness, and conformance with agency policy. Level 2-5 includes responsibility for dealing with particularly sensitive or controversial issues that may be reviewed by program officials at headquarters levels. Recommendations for new projects and shifts in program objectives are evaluated in terms of resources available, program goals, or agency-wide priorities. As discussed previously, the appellant performs at the operating level. NAVFAC and other higher echelon organizations retain authority for dealing with any controversial or sensitive

program issues, shifting program directions or objectives, and planning changes in program direction found at Level 2-5. Therefore, this factor is credited at Level 2-4 (450 points).

### *Factor 3, Guidelines*

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

The appellant states that his work meets Level 3-4. He states that his guidelines do not detail how the identified priorities and activities are to be accomplished. The appellant points to his thermal study as an example of deviating and extending from traditional methods to provide a site-specific solution and his establishing a record keeping system for air compliance without the benefit of any existing infrastructure as typical of Level 3-4.

The appellant's work meets Level 3-3. As at this level, guidelines include technical and procedural manuals (e.g., agency inspection procedures, case preparation manuals), handbooks, and textbooks; Federal, State, and local environmental regulations; and agency regulations and directives. Guidelines are not always completely applicable to specific work assignments, but precedent materials are available for reference (e.g., environmental reports, plans, and records illustrative of similar projects or assignments). For example, the appellant's thermal study evidences the use of well-established study planning and measurement methods and techniques. As at Level 3-3, he uses judgment to choose, interpret, and adapt standard methods to capture data at the correct distances from the discharge point and the proper tidal conditions to determine whether licensing requirements were satisfied. Typical of Level 3-3, he implements procedures to meet State requirements. For example, the appellant developed air compliance record keeping complying with specific licensing conditions, e.g., records of fuel use that indicate amounts (gallons) and percent sulfur by weight as demonstrated by purchase records from the supplier, recording solvents added and removed from the degreaser, and using a portable nitrous oxide monitor to measure emissions from each identified unit monthly.

The appellant's work does not meet Level 3-4. At that level, the specialist works within administrative policies and precedents, laws, regional or area directives, agency regulations, and scientific and technical references that are usually applicable, but are stated in general terms. For example, operating guidance provides a broad overview of program goals and strategies as well as priorities, but does not detail how the identified priorities and activities will be accomplished. The specialist uses initiative and resourcefulness in deviating from, refining, or extending traditional methods and practices, or in developing and recommending new or substantially modified methods, criteria, or policies. While the appellant plans and accomplishes the detachment environmental program using some guidelines typical of Level 3-4, the range of environmental issues with which he deals do not require the appellant to routinely deviate, refine, or extend traditional methods and practices or modify occupational methods, criteria, or policies, e.g., resolving chronic control and tracking problems by devising new ways to manage the use of hazardous materials in a large, complex industrial facility. As previously discussed, the environmental issues under his direct control can be resolved by applying well-established methods and techniques typical of the GS-028 and related occupations. Because this factor does not fully meet Level 3-4, it must be credited at Level 3-3 (275 points).

#### *Factor 4, Complexity*

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 disagrees with his agency's crediting of Level 4-3, stating that work which requires the use of a licensed professional engineer infers that the work is complex and involves many varied steps and procedures. He points to his responsibility for managing all assigned programs, including air emissions for a major source and hazardous waste for a facility defined as a large quantity generator. The appellant states that his thermal study illustrates that he must interpret considerable data and plan work items and that his asbestos abatement, facilities design, and industrial activities, e.g., power plant compliance with the Clean Air Act, show that he must extend or modify conventional methods and techniques. He says that his work requires him to inspect hazardous waste facilities, evaluate operating practices as they relate to compliance with the terms of licenses and permits, identify violations from field inspections, notify regulators of violations, and recommend corrective actions to attain compliance on a diverse range of subjects.

The appellant's description of his work closely matches Level 4-3. Work at that level includes a variety of duties involving different and unrelated processes and methods, e.g., performing site inspections, collecting data, reviewing documents, analyzing evidence, evaluating results, writing reports, recommending corrective action or procedures for compliance, and coordinating with installation officials and customers. The duties typically involve well-established and clearly defined aspects of environmental programs, projects, and studies. Decisions on what to do depend upon the analysis and evaluation of the issues or conditions involved in each assignment, e.g., program requirements, legal authorities, permit status, operational practices, results of monitoring procedures, conditions of noncompliance, extent of violations, degree of hazard, timeliness of action, cost effectiveness, and applicability of regulations. A course of action may have to be selected from many acceptable alternatives such as recommending improved management practices to facility operators or selecting the preferred alternative for disposal of hazardous property. The work involves conditions and elements that must be identified and analyzed to discern interrelationships, e.g., evaluating industrial practices and conditions to identify instances of noncompliance with regulations, determine extent of violations, and make recommendations for possible enforcement and/or corrective actions. Judgment is required to apply a range of established approaches to identifying and resolving problems.

Illustrative of such work is ensuring that hazardous property is managed according to applicable environmental laws; inspecting storage areas; overseeing removal by commercial contractors by acting as the contracting officer's representative; preparing environmental reports, plans, and records; and coordinating environmental policies and directives with installation officials, customers, generating activities, and others. The specialist considers such matters as category and location of property, potential for fire or explosion or degree of compatibility of chemicals, results of inspections, and applicability of regulations in providing technical guidance to personnel involved in the receipt, storage, handling, coding, accounting, and disposal of hazardous property. The work requires judgment in assessing the conformity of turn-in

procedures, container storage and labeling, safety and emergency responses, hazard communications, etc., to established requirements.

Typical of Level 4-3, the appellant performs the full range of inspection, evaluation, coordination and other functions for the detachment's environmental program. He works within the well-established program requirements of Navy policies, Federal and State law, and other directly applicable criteria to manage the clean air, clean water, hazardous materials and related functions at a small facility with discrete continuing operations; i.e., operating a small power plant to generate electricity and operate and maintain large antenna arrays that use the electricity produced. His inspections (e.g., hazardous materials storage, use, and disposal), studies (e.g., thermal), and compliance work (e.g., sulfur emissions monitoring) involve the analysis and evaluation of issues and conditions where the course of action may have to be selected from many acceptable alternatives, e.g., obtaining adequate storage lockers for hazardous materials storage, revising the spill response plan because of detachment operational and organizational changes, and bringing asbestos program plans and procedures into compliance with established requirements. Typical of Level 4-3, the appellant's air and wastewater program monitoring is to determine whether violations are occurring, the extent of any problems, and the actions necessary to bring operations into license and/or permit requirements.

The appellant's work fails to meet Level 4-4. Work at that level typically involves full responsibility for well-established aspects of one or more programs and/or functional areas and includes a wide variety of duties involving diverse and complex technical and/or program or administrative problems and considerations (e.g., inspecting or leading a team in inspecting various types of hazardous waste treatment and disposal facilities, evaluating operating practices, recommending improved procedures and cost effective alternative technologies, identifying violations, preparing reports of findings, and developing and negotiating mitigation projects). Decisions regarding what needs to be done depend on the assessment of unusual facts or conditions (e.g., practical economic or operating problems such as changing technology or program priorities, inadequate controls, unacceptable management practices, and abatement plans that are expensive to implement); variations in approach depending upon the environmental and political setting, available resources, impact on populations, involvement of State and local organizations, etc.; and incomplete or conflicting data (e.g., discrepant claims as to the toxicity of substances, inadequate program information from contractors or grant applicants, new methodologies or new programs for which only a minimum of information is available). The work requires making many decisions concerning such things as interpreting considerable data, planning the work, refining existing criteria, or extending or modifying conventional methods and techniques.

Illustrative of Level 4-4 is managing the hazardous material/waste, solid waste management, and resource recovery programs at a large military installation with a variety of industrial activities involving the maintenance, modification, and repair of aircraft. The specialist identifies and tracks waste streams, determines regulatory violations and recommends corrective action, and develops and implements resource recovery programs. This requires considering many different factors (e.g., the chemical and physical properties of hundreds of different materials and wastes generated in production areas, the nature of any contaminants, and the best methods of receiving, storing, handling, processing, and transporting hazardous materials and/or wastes to facilitate resource recovery efforts); alternative technologies for recycling, reclaiming, altering to a useful

byproduct that can be sold or used internally, and treating for safe disposal; constantly changing conditions in production operations; and changes in Federal, State, local, and agency policies and regulations. The work requires judgment in identifying opportunities for resource recovery that can offset handling/disposal costs, assessing and adapting new technologies, and responding to intensive monitoring by regulatory agencies.

The appellant's work does not meet Level 4-4. As discussed previously, the detachment is not responsible for variety of operations that produce the complex environmental issues found at Level 4-4. Environmental cleanup issues typical of Level 4-4 are managed by NAVFAC. Power plant and facilities maintenance work does not entail the assessment of unusual facts or conditions or other Level 4-4 complicating conditions. For example, air emission monitoring and record keeping requirements are straightforward. They do not involve the conflicting or incomplete data, changing requirements, or equivalent complications found at facilities with diverse and complex industrial programs. Unlike the intensive regulatory monitoring typical of Level 4-4, the air emission license requires limited record keeping and monthly self-monitoring of stack emissions. Therefore, we credit this factor at Level 4-3 (150 points).

#### *Factor 5, Scope and effect*

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 work products or services both within and outside the organization. Only the effect of properly performed work is considered.

The appellant disagrees with his agency's crediting of Level 5-3, stating that compliance with terms of the air emission license and the use of sea water for power plant operations is mission critical. He stated that management of the asbestos program is critical for maintaining safe working conditions at the power plant and that managing hazardous waste is critical to environmental compliance. The appellant says that his PD reflects Level 5-4 language and that his work directly influences the acceptability of total environmental protection systems and/or programs affecting the activities of industrial or commercial concerns because the power plant is an industrial facility.

The appellant's position meets Level 5-3. Typical of this level, his work involves planning and carrying out routine program activities for a power plant characterized by State DEP personnel as small and with less complex monitoring requirements. As at Level 5-3, the studies and other projects cited by the appellant in his appeal rationale are conventional and are covered by established precedents and procedures as discussed previously in this decision. The work affects the operation of a local activity, environmental protection and related programs and affects the well-being of persons in the surrounding area.

The position does not meet Level 5-4 where the purpose of the work is to plan and carry out a variety of important project or program activities. The work involves establishing criteria (e.g., developing operating guidance or procedural manuals for major agency activities); formulating projects; assessing program effectiveness; investigating or analyzing a variety of unusual conditions or questions; or providing advisory or oversight services to regional and operating personnel, State and local officials, industry representatives, and others on specific functions or programs. Assignments typically involve problems that are particularly difficult, widespread, or

persistent; or that are systemic in nature involving major systems or processes. In contrast, the appellant's work is activity specific and does not involve the more complex issues and problems envisioned at that level. Environmental problems of that magnitude, e.g., IR and PCB cleanup, involving complex mitigation problems are under the control of NAVFAC. The local impact of his work does not affect a wide range of agency activities, major activities of industrial or commercial concerns, or the operation of other agencies, e.g., planning new approaches to asbestos abatement at a number of major Navy activities. Therefore, we credit this factor at Level 5-3 (150 points).

#### *Factor 6, Personal contacts, and Factor 7, Purpose of contacts*

The GS-028 PCS treats Factors 6 and 7 together. Contacts credited under Factor 6 must be the same contacts considered under Factor 7. Factor 6 (Levels 1 to 3) includes face-to-face contacts and telephone and radio dialogue with persons not in the supervisory chain. Levels of this factor are based on what is required to make the initial contact, the difficulty of communicating with those contacted, and the setting in which the contact takes place (e.g., the degree to which the employee and those contacted recognize their relative roles and authorities). Factor 7 (Levels a to c) addresses the purpose of personal contacts, which may range from factual exchange of information to situations involving significant or controversial issues and differing viewpoints or objectives.

#### *Personal contacts*

The appellant says that Level 3 should be credited because he has regular and recurring contact with people outside the agency in a moderately unstructured setting, e.g., he is the contact point on environmental program correspondence with the State. He also points to language in his PD.

The appellant's work meets Level 2. As at that level, his contacts outside the agency are with State environmental agencies, contract representatives, engineers, and similar personnel in a moderately structured setting. For example, the correspondence that the appellant cites and the State's response make the appellant's role clear. The same is true of the appellant's contacts with contractors on waste removal and similar day-to-day detachment functions. In contrast, Level 3 contacts are moderately unstructured where the role and authority of each party must be developed during the course of the contact, e.g., regularly participating in public meetings on environmental program issues. These functions are not assigned to the appellant. Therefore, this factor is credited at Level 2.

#### *Purpose of contacts*

The appellant states that Level c should be credited because of his role in reviewing and negotiating compliance issues related to permits and licenses, and dealing with uncooperative groups that have differing goals in such areas as exposure to electromagnetic radiation and asbestos. The purpose of the appellant's most demanding regular and recurring contacts meets Level b. The contacts involve coordinating work efforts and resolving operating problems, e.g., obtaining and clarifying information required to meet permit and licensing requirements, resolving waste hauling issues, and promoting employee compliance with environmental and safety practices. Unlike Level c, the appellant is not regularly required to negotiate the scope of

issues, defend significant or controversial agency actions, negotiate or mediate among groups or people with divergent viewpoints, or convince program managers to change or modify decisions involving significant or controversial issues. The record shows that licensing and permit issues are not controversial. Program issues of this nature are controlled and decided at higher echelons in the agency, e.g., NAVFAC responsibility for the PCB cleanup project.

Therefore, these factors are credited at Level 2b (75 points).

#### *Factor 8, Physical demands*

This factor covers the requirements and physical demands placed upon the employee by the work assignment. This includes physical characteristics and abilities and physical exertion involved in the work.

The appellant says that he spends approximately 37.5 to 50 percent of his time away from his office on field work. The record shows that the appellant routinely drives and walks around the facility several hours each day. His inspectional work involves stooping and climbing, e.g., climbing stairs and walking across the power plant roof to take stack emission readings and checking hazmat areas for leaking containers. These demands meet but do not exceed Level 8-2, the highest level described in the PCS where work requires regular physical exertion such as prolonged standing, bending, and stooping to observe work operations and identify leaking container. Therefore, this factor is credited at Level 8-2 (20 points).

#### *Factor 9, Work environment*

This factor considers the risks and discomforts in the employee's physical surroundings or the nature of the work assigned and the safety regulations required.

The appellant points to his asbestos program duties and the fact that he is respirator qualified. He maintains certification as a licensed pesticide applicator, visits remediation sites, and inspects hazardous waste sites. He says that he is monitored for exposure to hazardous chemicals and wears protective clothing and gear when responding to spills, addressing asbestos issues, visiting remediation sites, and performing other aspects of his work.

The record shows that the appellant uses a range of protective gear. Most work requires using safety shoes and glasses. However, his asbestos duties require additional precautions and his roof work requires using a harness for protection. These requirements occur with sufficient regularity to meet the threshold for Level 9-2 which is the highest level described in the PCS. At this level, work involves regular and recurring exposure to moderate risks or discomforts that require special safety precautions (e.g., working at a storage, disposal, or spill site where there is risk of exposure to pesticides, hazardous chemicals, radioactive materials, or other pollutants). The environmental protection specialist must use protective clothing and/or gear. Therefore, this factor is credited at Level 9-2 (20 points).

#### *Summary*

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



<i>Factors</i>	<i>Level</i>	<i>Points</i>
1. Knowledge required by the position	1-6	950
2. Supervisory controls	2-4	450
3. Guidelines	3-3	275
4. Complexity	4-3	150
5. Scope and effect	5-3	150
6. Personal contacts and 7. Purpose of contacts	2b	75
8. Physical demands	8-2	20
9. Work environment	9-2	<u>20</u>
	Total Points	2,090

A total of 2,090 points falls within the GS-9 grade level point range of 1,855-2,100 points on the Grade Conversion Table.

### **Decision**

The appellant's position is properly classified as Environmental Protection Specialist, GS-028-9.