

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

Atlanta Oversight Division  
75 Spring Street, SW., Suite 1018  
Atlanta, GA 30303-3109

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

**Appellant:** [Appellant]

**Agency classification:** Environmental Engineer  
GS-819-12

**Organization:** U.S. Environmental Protection Agency

**OPM decision:** Environmental Engineer  
GS-819-12

**OPM decision number:** C-0819-12-01

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Virginia L. Magnuson  
Classification Appeals Officer

May 20, 2002  
Date

As provided in section 511.612 of title 5, Code of Federal Regulations, 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).

**Decision sent to:**

[Appellant]

[Personnel Specialist]  
Human Resources Management Branch  
U.S. Environmental Protection Agency

Ms. Daiva Balkus  
Director  
Office of Human Resources and  
Organizational Services  
U.S. Environmental Protection Agency (3610A)  
1200 Pennsylvania Avenue, NW.  
Washington, DC 20460

## **Introduction**

On January 31, 2002, the Atlanta Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a classification appeal for the position of Environmental Engineer, GS-819-12. The position is located in the [organization], U.S. Environmental Protection Agency (EPA), [location]. The appellant requests that his position be reclassified to GS-13.

OPM received a complete administrative report on February 21, 2002. The appeal has been accepted and processed under section 5112(b) of title 5, United States Code (U.S.C.).

## **General issues**

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 (5 U.S.C. 5106, 5107, and 5112). Therefore, we have considered the appellant's statements only insofar as they are relevant to making that comparison.

The appellant discusses utility enforcement duties that he performed on a previous detail. They still periodically resume for short periods of time. Only regular and recurring duties that occupy at least 25 percent of an employee's time can affect the grade of a position (*Introduction to the Position Classification Standards*, section III.J.). Therefore, we will not evaluate the appellant's utility enforcement duties in this decision.

In reaching our classification decision, we have carefully reviewed all information furnished by the appellant, his supervisor and his agency, including the official position description.

## **Position information**

The appellant is assigned to position description number [#]. The supervisor certified the overall accuracy of the position description, but noted some modifications and slight changes in duties required due to division reorganization in August 2001. The appellant did not agree with the accuracy of the position description. He believes it does not totally and accurately reflect his duties, particularly in defining his technical expertise. An OPM representative conducted an on-site audit with the appellant and interview with the supervisor on April 2, 2001.

We found the position description accurately describes the appellant's primary duties and responsibilities; however it also describes several duties that are not currently performed by the appellant. These duties relate to the paramount duties of the position; do not impose higher levels of difficulty, responsibility or qualifications requirements; and do not impact the classification. The minor change in duties is due to the division's reorganization in August 2001, and the supervisor intends to modify the position description to more accurately reflect the change.

The appellant provides technical support for regional stack testing and continuous monitoring efforts, primarily for sources subject to the Acid Rain Program of the Clean Air Act. He serves as the region's point-of-contact on Continuous Emission Monitoring Systems (CEMS) under the Acid Rain program and supports other programs with CEMS requirements. Activities involve the observation of compliance and CEMS certification tests. He provides assistance to state and local agencies, industries and other EPA elements with respect to pertinent regulations and requirements. The appellant reviews audits of utilities and plants done by States (approximately 70 in the last year) and prepares a written response or advice if he identifies problems or concerns. Audit review entails consideration of operations, units used, air flow, emissions calculations, etc. He reviews reports submitted by source owners and operators in order to document the results of compliance and monitor certification tests. The appellant prepares various reports and program summaries for technical and programmatic matters related to state/local program implementation and conducts subject-matter briefings for state/local representatives. The assignment includes evaluation of complex air pollution control problems; plans, specifications and testing of pollution control devices, systems and operations; and the preparation of related technical reports.

The appellant investigates situations brought to his attention, requests additional information from states or plants, or makes referrals to EPA enforcement personnel or others. He works through attorneys if necessary to obtain information or may provide technical information to them in pursuing enforcement cases. He spends a small amount of time on reviews of power plant data for the Southern Appalachian Mountains Initiative and some power plant permits

The appellant independently plans and carries out assignments, interprets policy, coordinates work with others, resolves most of the conflicts that arise, and keeps the supervisor informed of far-reaching or political implications. The appellant provides the supervisor with a weekly report of work. Most written work products go through the supervisor and the branch chief and are reviewed for feasibility and effectiveness.

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

The appellant does not contest the agency's title or series determination for his position. The agency determined the appellant's position is properly placed in the Environmental Engineering Series, GS-819, and titled as Environmental Engineer. We concur with the agency's series and title decision.

The published position classification standard for the GS-819 series, dated April 1978, must be used for grade level determination in evaluating the appellant's position.

### **Grade determination**

The GS-819 standard is written in the Factor Evaluation System (FES) format. Under the FES, positions are placed in grades on the basis of their duties, responsibilities, and the qualifications required as evaluated in terms of nine factors common to nonsupervisory General Schedule positions.

A point value is assigned to each factor based on a comparison of the position's duties with the factor-level descriptions in the standard. The factor point values mark the lower end of the ranges for the indicated factor levels. For a position factor to warrant a given point value, it must be fully equivalent to the overall intent of the selected factor-level description. If the position fails in any significant aspect to meet a particular factor-level description in the standard, the point value for the next lower factor level must be assigned, unless the deficiency is balanced by an equally important aspect, which meets a higher level. The total points assigned are converted to a grade by use of the grade conversion table in the standard. For evaluation of Factor 1 for the appellant's position, we also referred to the Primary Standard, the "standard for standards," for a thorough understanding of level intent of the factor.

The appellant disagrees with all the agency factor level determinations except Factor 9. We have reviewed factor 9 and agree with the agency determination. Therefore, we will not discuss Factor 9 in this decision.

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

This factor measures the nature and extent of information or facts that the engineer must understand to do acceptable work (e.g., steps, procedures, practices, rules, policies, theories, principles, and concepts) and the nature and extent of skills necessary to apply this knowledge. The agency credited Level 1-7.

At Level 1-7, engineers apply professional knowledge in performing a wide range of duties in one or more specialty areas. They modify standard practices and adapt equipment or techniques to solve a variety of engineering problems. They adapt precedents or make significant departures from previous approaches to similar projects to accommodate the specialized requirements for some projects. Engineers at this level also apply the standard practices of other engineering disciplines as they relate to a specialty area.

Knowledge at Level 1-8 includes mastery of one or more specialty fields. The engineer is capable of applying new developments and experienced judgment to solve novel or obscure problems and applies the skill sufficiently to extend or modify existing techniques and develop new approaches for use by other engineering specialists in solving a variety of engineering problems. Typically, the employee is a recognized expert in a specialty field.

For further consideration of expertise and mastery, we reviewed the Primary Standard. At Level 1-8 in the primary standard, "mastery of a professional field" is required when work assignments require application of experimental theories and new developments to problems not susceptible to treatment by accepted methods. Mastery is also applied when an employee makes decisions or recommendations significantly changing, interpreting or developing important public policies or programs, or equivalent skill and knowledge.

The primary purpose of the appellant's position is to provide technical support for regional stack testing and continuous monitoring efforts involving sources subject to the Acid Rain Program. The appellant estimated that he spends over 70% of his time on the Acid Rain Program. He responds to state and utility representatives and others on a variety of inquiries and requests

relative to CEMS issues, e.g., use of NASA developed technology, need for plants to do full or partial certifications because of new equipment installation, and air pollutants in the Great Smoky Mountains. He adapts methodologies such as establishing an F-factor for a source for emission calculations when burning petroleum coke. Utility representatives routinely call for assistance on regulatory interpretations relative to operational compliance. In resolving problems, the appellant modifies and adapts standard engineering guidelines or precedent. Since consistency among regions is important, the appellant may call headquarters to seek or suggest a consistent agency response.

The appellant's position meets Level 1-7. It requires professional knowledge applicable to a range of duties relating to the Acid Rain and other programs with CEMS requirements. The appellant responds to inquiries and reviews documents relative to plant operations, units used, air flow, emissions calculations, etc., and provides guidance and assistance on engineering and operational means and methods of maintaining or reaching regulatory compliance. As is typical of Level 1-7, the work requires modification or adaptation of standard practices and of precedent approaches to similar projects or situations. The appellant serves as the point of contact and a level of authority for states and utilities within the region.

Level 1-8 is not met. The appellant's duties require him to provide advice and monitor activities primarily relating to CEMS requirements of the Clean Air Act for the region. These duties do not present novel and obscure problems that require application of the same level of knowledge that is characteristic of Level 1-8. The appellant does not have responsibility for solving these unique types of problems and does not develop new approaches for use by other engineering specialists. While the appellant consults and provides information to states, utilities and others, he is not the recognized expert, in the manner intended at Level 1-8. He refers significant deviations lacking precedent or having significant implications to agency headquarters.

Level 1-7 is credited for 1250 points.

### *Factor 2, Supervisory controls*

This factor covers the nature and extent of direct or indirect controls exercised by the supervisor, the engineer's responsibility, and the review of completed work. The agency assigned Level 2-4 for this factor. The appellant disagrees.

At Level 2-4, the supervisor sets the overall objectives and resources available. The engineer and supervisor, in consultation, develop the deadlines, projects, and work to be done. The engineer, having developed expertise in the specialty area, is responsible for planning and carrying out the assignment, resolving most of the conflicts that arise, coordinating the work with others as necessary, and interpreting policy on own initiative in terms of established objectives. Completed work is reviewed only from an overall standpoint in terms of feasibility, compatibility with other work, or effectiveness in meeting requirements or expected results.

At Level 2-5, the supervisor provides administrative direction with assignments in terms of broadly defined missions or functions. The engineer has responsibility for planning, designing, and carrying out programs, projects, studies, or other work independently. Results of work are considered as technically authoritative and are normally accepted without significant change. If

work should be reviewed, the review concerns such matters as fulfillment of program objectives, effect of advice and influence of the overall program, or the contribution to the advancement of technology. Recommendations for new projects and alteration of objectives usually are evaluated for such considerations as availability of funds and other resources, broad program goals, or national priorities.

The appellant's position fully meets Level 2-4. He independently plans and carries out assignments, interprets policy, coordinates work with others, resolves most of the conflicts that arise, and keeps the supervisor informed of far-reaching or political implications. The appellant provides the supervisor with a weekly report of work. Most written work products go through the supervisor and the branch chief and are reviewed for feasibility and effectiveness.

Level 2-5 is not met. The intent of Level 2-5 is full technical authority over a more difficult assignment in which the employee is managing a program and is contributing to the advancement of technology. Though the appellant independently carries out his continuing or other assignments, the supervisory control over the assignments consists of oversight through weekly reports, regular review of written products, and interpretive guidance from headquarters authorities on unprecedented significant issues. The responsibility in carrying out the assigned work does not meet the intent of independence and responsibility envisioned for positions at Level 2-5.

Level 2-4 is credited for 450 points.

### *Level 3, Guidelines*

This factor covers the nature of the judgment needed to apply guidelines. Since individual assignments vary in the specificity, applicability, and availability of guidelines, the constraints and judgmental demands placed upon engineers also vary. For this factor, guidelines refer to standard guides, precedents, methods, and techniques including agency manuals of instructions and operations, standard textbooks, and governing policies and procedures of the agency. The agency assigned Level 3-4 to this factor.

At Level 3-4, guidelines are often inadequate in dealing with the more complex or unusual problems. The engineer is required to use resourcefulness, initiative, and judgment based on experience. He uses these to deviate from or extend traditional engineering methods and practices in developing solutions to problems where precedents are not applicable. This level may include responsibility for the development of material to supplement and explain agency headquarters guidelines.

At Level 3-5, the engineer, working chiefly under broad and general policy statements, regulations, and laws, exercises considerable judgment and ingenuity in interpreting and adapting guides that exist and in developing new and improved hypotheses, approaches, or concepts not previously tested or reported in the literature of the field. Frequently, the engineer is recognized as a technical authority in the specialty area, with responsibility for the development of policies as well as nationwide standards, procedures, and instructions to guide operating personnel.

The position meets Level 3-4. The appellant's assignment requires a thorough knowledge of technical, regulatory and policy guidelines. These include engineering principles, environmental laws and enforcement policies and guidelines. Guidelines are not clear and are often conflicting. Precedent exists for many situations. The appellant must use judgment regarding the interpretation of regulations and guidelines in advising states/local agencies and utilities and in evaluating situations, reports and tests and identifying regulatory violations. He must adapt traditional engineering methods to resolve difficult engineering problems where precedent is not available. Problems are referred by others or are identified by the appellant. The appellant frequently must research problems in seeking solutions.

Level 3-5 is not met since this position is not required to exercise the judgment and ingenuity required to develop new and improved hypotheses, approaches, or concepts not previously tested or published. Further, the appellant does not have regular responsibility for the development of policies or nationwide standards for either the CEMS, the Acid Rain Program or EPA.

Level 3-4 is credited for 450 points.

#### *Factor 4, Complexity*

This factor covers the nature and variety of tasks, steps, processes, methods, or activities in the work performed; and the degree to which the engineer must vary the work, discern interrelationships and deviations, or develop new techniques, criteria or information. The agency assigned Level 4-4 to this factor.

The basic unit of measuring this factor is the "complex feature." The standard describes a complex feature as an individual engineering problem, broadly defined, that requires (1) modification or adaptation of, or compromise with, standard guides, precedents, methods, or techniques or (2) special considerations of planning, scheduling, and coordination.

The standard provides some examples of complex features. Illustrations include the following.

- Special planning and scheduling is necessary to integrate completion dates for phases of Government work with phases to be performed by contractors.
- The engineer presents special written analysis and justification to higher organizational entities on various benefits of proposed work in comparison to estimated costs.
- When proposed work infringes on State or municipal structures or requires approval of such authorities, the engineer coordinates with State and local civil authorities by personal contact and correspondence.
- The engineer must analyze and choose from among two or more standard methods from the standpoint of economy and engineering feasibility, when each approach contains advantages and disadvantages that do not readily or clearly outweigh those of the others.



At Level 4-4, assignments typically contain combinations (e.g., two to five) of complex features. Work at this level typically involves the application of standard engineering practices to new situations and relating new work situations to precedent ones and, in addition, the modification or adaptation of and making compromises with standard guidelines.

At Level 4-5, assignments are of such breadth, diversity, and intensity that they involve many varied complex features. The work requires that engineers be especially versatile and innovative in adapting, modifying, or making compromises with standard guides and methods to originate new techniques or criteria. Individual assignments typically contain a combination of seven or more complex features that involve serious or difficult-to-resolve conflicts between engineering and management requirements.

The appellant's assignment meets Level 4-4. In the course of performing technical support and monitoring functions, the appellant evaluates complex air pollution control problems, plans and specifications, and observes compliance in testing of pollution control devices, systems and operations. Combinations of complex features including frequently changing guidelines, conflicting regulatory usage and interpretations, choosing from alternative methods or modifying standard methods, and coordinating among involved groups characterize the assignment.

The assignment requires the appellant to modify or adapt standard engineering practices in advising others on adequate engineering methods or compromises in reaching compliance. It involves application of standard engineering practices to new situations and relating new work situations to precedent ones. The appellant evaluates information and determines the adequacy of environmental control performance. This frequently requires him to decide acceptable emission rates supported by data and reasonable engineering assumptions. The CEMS regulations and guidelines change frequently and regularly present interpretive issues since terminology used is not always consistent with usage by other regulators, such as the Department of Energy, and the industry. The appellant must research regulatory requirements and precedent interpretations in determining variance and compliance and technical responses to utility and state personnel. As necessary, he consults with others to ensure national consistency. He coordinates with utilities' representatives, state/local agencies and EPA headquarters by personal contact and correspondence relative to monitoring, testing and compliance concerns, problems and interpretive issues.

The appellant surfaces unprecedented, significant problems to headquarters and coordinates in the final resolution of problems. For example, he explored all the CEMS issues for a power plant which had not certified its continuous emission monitors within established deadlines. Several regulatory violations are in question and the appellant performed initial coordination between the agency, the state and the plant manager. He also is providing technical advice to agency legal representatives and others pursuing the noncompliance issues.

Level 4-5 is not met. The appellant's assignment does not reach Level 4-5 since he is not responsible for originating new techniques or criteria. Based on his knowledge of the regulations and power plant operations, he may suggest interpretations and problems to headquarters personnel, however, the work essentially involves identification of regulatory guidelines and precedent to new situations and modification and adaptation of standard engineering practices.

Level 4-4 is credited for 225 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. Effect measures such things as whether the work output facilitates the work of others, provides timely services of a personal nature, or affects the adequacy of research conclusions. The agency assigned Level 5-4.

At Level 5-4, the purpose of the work is to provide expertise as a specialist in a particular specialty field by furnishing advisory, planning, or reviewing services on specific problems, projects, programs, and functions. The work may include the development of criteria, procedures, or instructions for major agency activities. Work products have an impact on a wide range of the agency's engineering program.

At Level 5-5, the purpose of the work is to resolve critical problems or to develop new approaches or methods for use by other engineering specialists. Often serving as consultant or project coordinator, the engineer provides expert advice and guidance to officials, managers, and other engineers within or outside the agency, covering a broad range of engineering activities. Results of the efforts affect the work of other engineering experts both within and outside the agency or the development of major aspects of agency engineering programs.

Level 5-4 is met. The scope of the appellant's work is to investigate, analyze, review, plan and advise on problems or conditions affecting Acid Rain Program monitoring and testing compliance within the region. This compares to Level 5-4 at which an engineer furnishes advisory, planning or reviewing services on specific problems, projects, programs and functions. The effects of the appellant's actions are normally limited to programs of regional organizations and state and local agencies within the region. Some situations handled at the regional level may become the impetus for changes to national guidelines.

Level 5-5 is not met. Although the appellant provides advice and guidance to officials, managers, and other engineers within or outside the agency, his assigned duties are primarily focused on the CEMS requirements of the Acid Rain Program and do not cover the broad range of clean air engineering activities expected at Level 5-5. His determinations do not directly affect major aspects of agency engineering programs.

Level 5-4 is credited for 225 points.

*Factor 6, Nature of Contacts*

This factor includes face-to-face and telephone contacts with persons not in the supervisory chain. Levels described 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. The agency credited Level 6-3.

At Level 6-3, personal contacts include a variety of officials, managers, professionals or executives of other agencies and outside organizations. Typical contacts at this level are manufacturers' representatives, private architecture-engineer firms, specialist at contractor plants and engineers and architects from other Federal agencies and State and local government.

At Level 6-4 personal contacts are with high ranking officials from outside the agency, including key officials and top engineering and scientific personnel of other agencies, state and local governments, private industry and public groups. The engineer may also participate, as a technical expert, on committees and at seminars of national or even international importance.

Level 6-3 is met. The appellant's normal contacts include a wide range of professional and administrative personnel throughout the agency, at other Federal agencies, in state and local government, private industry, academia, environmental advocacy groups, and in some cases plant managers, the media and elected officials.

Level 6-4 is not fully met since there is no information in the appeal record that contacts regularly are with high-ranking officials outside the agency and key officials and top engineering personnel outside of EPA. Most contacts are with action officers to work out problems or advise on compliance issues. The appellant does not participate on a regular basis as a technical expert, on committees and at seminars of national or international importance.

Level 6-3 is credited for 60 points.

#### *Factor 7, Purpose of contacts*

The purpose of contacts varies from factual exchanges of information to situations involving significant or controversial issues and differing viewpoints, goals, or objectives. The personal contacts that serve for the level selected for this must be the same as the contacts that are the basis for the level selected for Factor 6. The agency credited Level 7-3.

At Level 7-3, the purpose of contacts is to influence or persuade other engineers to adopt technical points and methods about which there are conflicts, to negotiate agreements with agencies and contractors where there are conflicting interests and opinions among organizations or among individuals who are also experts in the field, or to justify the feasibility and desirability of work proposals to top agency officials.

At Level 7-4, the purpose of contacts is to justify, defend, negotiate or settle highly significant or controversial engineering matters. Engineers often represent their agencies in professional conferences or on committees to plan extensive and long-range engineering programs and to develop standards and guides for broad activities.

Level 7-3 is met. The appellant's contacts are for the purpose of planning, coordinating or advising on work efforts or resolving operating problems in dealings with others who are working toward mutual goals. He also negotiates with others who are skeptical or uncooperative or whose interests differ from those of the program represented.

Level 7-4 is not met. He provides technical input in controversial noncompliance and enforcement situations stemming from cases he identifies or develops and coordinates with attorneys, EPA headquarters personnel and others. The appellant is not responsible, however, for justifying, defending, negotiating or settling highly significant or controversial engineering matters as intended at this level. There is no indication that he often represents the agency at professional conferences or on committees to plan extensive and long-range engineering programs or develop standards and guides for broad activities.

Level 7-3 is credited for 120 points.

*Factor 8, Physical demands*

This factor covers the requirements and physical demands placed on the engineer by the work assignment. This includes physical characteristics and abilities and physical exertion involved in the work. To some extent, the frequency or intensity of physical exertion is also considered. The agency credited Level 8-1.

At Level 8-1, the work is principally sedentary, although there may be some walking or bending involved in activities such as inspections of installed equipment or construction or field site visits.

At Level 8-2, the work requires regular and recurring construction or field inspections, investigations, or surveys in which there is a considerable amount of walking, stooping, bending, and climbing.

The appellant's assignment is primarily sedentary and is comparable to Level 8-1. Level 8-2 is not met since the appellant's work does not require the regular and recurring inspections, investigations, or surveys identified at that level. The appellant indicated that he has performed on-site activities an estimated 1 percent of the time.

Level 8-1 is credited for 5 points.

*Summary*

<i>Factor</i>	<i>Level</i>	<i>Points</i>
1. Knowledge required by the position	1-7	1250
2. Supervisory controls	2-4	450
3. Guidelines	3-4	450
4. Complexity	4-4	225
5. Scope and effect	5-4	225
6. Personal contacts and	6-3	60
7. Purpose of contacts	7-3	120
8. Physical demands	8-1	5
9. Work environment	9-1	5
<i>Total</i>		2,790

A total of 2,790 points falls within the GS-12 grade level range, 2,755 – 3,150 points, on the Grade Conversion Table.

**Decision**

The position is properly classified as Environmental Engineer, GS-819-12.