

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 Assistant  
GS-029-6

**Organization:** Environmental Management Division  
Directorate of Housing and  
Public Works  
[installation]  
Department of the Army  
[location]

**OPM decision:** Environmental Protection Assistant  
GS-029-7

**OPM decision number:** C-0029-07-02

/s/ Robert D. Hendler

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Robert D. Hendler  
Classification Appeals Officer

August 14, 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).

Since this decision changes the classification of the appealed position, it is to be effective no later than the beginning of the fourth pay period after the date of this decision (5 CFR 511.702). The servicing personnel office must submit a compliance report containing the corrected position description (PD) 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.

### **Decision sent to:**

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## **Introduction**

On May 20, 2002, the Philadelphia Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant's name]. The appeal package included the administrative report. His position is currently classified as Environmental Protection Assistant, GS-029-6. The appellant believes the classification should be Environmental Protection Specialist, GS-028-9. The position is in the Environmental Management Division, Directorate of Housing and Public Works (DHPW), [installation], Department of the Army, [location]. We have accepted and decided his appeal under section 5112 of title 5, United States Code (U.S.C.).

## **General issues**

The appellant included a copy of a PD and automated evaluation statement classified as Environmental Protection Specialist, GS-028-9, in the appeal forwarded by the appellant's agency to OPM. The documents referring to that PD were signed by the appellant and his first and second level supervisors and endorsed by his third level supervisor as part of a process seeking to promote the appellant. However, this PD is not the same PD of record ([number]) certified as current and accurate by the appellant and his first level supervisor and provided by the agency as part of the appeal administrative report.

The appellant provided copies of PD's from other agency activities classified to the GS-028 series at higher grade levels for comparison to his PD of record. He also pointed to training that he has received on hazardous materials, environmental compliance, and related topics. E-mails in the record show the appellant was not satisfied with his agency's appeal processing support.

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. Because our decision sets aside all previous agency decisions, the appellant's concerns regarding his agency's classification review process are not germane to this decision. The training that the appellant has received will be considered insofar as it is required to perform the current duties and responsibilities of his position.

Implicit in the appellant's rationale is a concern that his position is classified inconsistently with other positions. As discussed in this appeal decision, the appellant's work functions are covered by the GS-029 series. They are materially different from the duties described in the PD's that the appellant submitted as part of his appeal. Like OPM, the appellant's agency must classify positions based on comparison to OPM PCS's and guidelines. Section 511.612 of 5 CFR, requires that agencies review their own classification decisions for identical, similar, or related positions to insure consistency with OPM certificates. Thus, the agency has the primary responsibility for insuring that its positions are classified consistently with OPM appeal decisions. If the appellant believes that his position is classified inconsistently with those of others, he may pursue this matter by writing to his agency headquarters human resources office. In so doing, he should specify the precise organizational location, series, title, grade, duties, and responsibilities of the positions in question. The agency should explain to him the differences

between his position and the others, or grade those positions in accordance with this appeal decision.

The appellant expressed his concerns about performing higher level work for which he has not been compensated. He questioned whether he would be owed additional compensation if his appeal was successful. The Comptroller General (CG) has stated that an “. . . employee is entitled only to the salary of the position to which he is appointed, regardless of the duties performed. When an employee performs the duties of a higher grade level, no entitlement to the salary of the higher grade exists until such time as the employee is promoted. . . Consequently, backpay is not available as a remedy for misassignments to higher level duties or improper classification” (CG decision B-232695, December 1989). This ruling and previous rulings on this issue were reaffirmed by the United States Supreme Court in *United States v. Testan*, 424 U.S. 392, at 406 (1976).

### **Position information**

The appellant provides administrative and technical support to the division. He is responsible for preparing the Installation Status Report (ISR), Part II, Environmental Program Requirements Report (EPR), and the Environmental Quality Report (EQP). The ISR, Part II, covers the environmental fitness in the installation's facilities. It is organized by media, e.g., water quality and environmental noise and reports the status, i.e., red, amber, or green. The report includes current monetary expenditures, additional expenditures required, and expenditures projected for future years. The EPR functions as a financial document used to report resources required to meet environmental needs. It is used to support the formal budget document used in the budget process. Exhibit 2's to the report describe program needs and data such as individual projects, resource needs, and level of priority. The EQP is a data base that reports on installation compliance activity on environmental violations.

The appellant is the installation's primary point of contact with the Army Environmental Center (AEC) which manages these reporting programs for the agency. He contacts AEC staff to clarify changes in reporting requirements and passes this information on to engineers and other environmental staff that provides the technical information required for these reports. The appellant participates in testing software changes to these systems and provides input as a skilled user, e.g., suggesting additional room for contract information and including a field for comments. He is viewed as the local expert on the administrative aspects of program reporting requirements and periodically briefs higher level managers on report content.

The appellant provides similar support to the division budget and annual work plans. He develops the budget based on program priorities developed by the division chief and the funding target given to the division. The appellant provides advice to the division chief on changes in funding based on his knowledge of program priorities, e.g., meeting compliance requirements and goals. This includes developing a decrement list and proposing changes in project phasing. He obtains information from staff engineers and develops additional information from program data, e.g., installation profiles, to develop project estimates required for both the EPR and the budget process. The appellant provides purchase and contract support, including identifying potential contractors. Staff engineers develop statements of work and the appellant provides cradle-to-grave procurement administrative support for the contracted work.

The appellant is a member of the oil response team. He occasionally conducts environmental inspections, e.g., reviewing hazardous material storage checking on marking, condition of the cabinet, containment, and documentation. He may perform contracting officer representative (COR) review of work in the absence of the assigned engineer or as an assistant to the engineer. The record shows that inspection and related duties do not occupy a substantial portion of the appellant's work time, i.e., 25 percent or more.

Agency management and the appellant have certified that the appellant's PD of record is accurate. We conducted a telephone audit with the appellant on July 29, 2002, and a telephone interview with his acting supervisor, [name], on August 5. To clarify information in the record, we conducted telephone interviews with the appellant's former supervisor, [name], on July 29, and his second level supervisor, [name], Deputy Director, DHPW, on August 7. We conducted telephone interviews with three members of the AEC who are the appellant's primary contacts on reporting requirements: [name] (ISR) on August 5, and [name] (EPR) and [name] (EQR) on August 7.

The PD of record contains the duties and responsibilities assigned by management and performed by the appellant. However, it does not fully describe the reporting program responsibilities assigned to and performed by the appellant. For example, the PD states that he gathers, organizes, and analyzes data from existing environmental data bases and files to produce reports; maintains and updates local data bases containing program requirements and information; provides technical information to engineers and contractors as needed; and prepares required reports. However, our fact-finding revealed that he has continuing administrative support responsibility for division reporting requirements. For example, he contacts technical staff at the AEC to clarify changes in reporting requirements and policies and resolve whether division personnel are properly interpreting those changes. He participates in testing system software changes and provides feedback on program changes as the primary activity user, e.g., feedback on changes to ISR standards reviewed and approved by the ISR working group. 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 guide determination**

The agency has classified the position in the Environmental Protection Assistant Series, GS-029, titled it Environmental Protection Assistant, and determined that it is properly graded by application of the Grade Level Guide for Clerical and Assistance Work (Guide). The appellant believes that he is performing two-grade interval administrative work classified to the Environmental Protection Specialist Series, GS-028.

Environmental protection specialists are concerned with developing, analyzing, evaluating, and modifying environmental programs, policies, and procedures. They exercise judgment and broad perspective in applying a thorough knowledge of the principles, concepts, and practices relating to environmental protection programs as they concern problems of organizing, planning, funding, and controlling environmental activities. The work requires 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. GS-028 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. The work parallels functions performed by environmental scientists and environmental engineers but does not require professional knowledge and skill.

Environmental programs at the field office level are typified by responsibility for managing an integrated hazardous material program, from receipt through disposal; managing an integrated clean air and water program, including permitting and compliance processes; and overseeing wildlife, fish and related protection programs at Federal activities with significant forests and other undeveloped areas. These functions are assigned to and performed by other staff in appellant's organization, including environmental engineers, a fish and wildlife biologist, and an agronomist. The record shows that these positions are assigned responsibility for various program media and are responsible for formulating the technical content of program plans.

In comparison, environmental protection assistants perform support work in the environmental protection and improvement field. The work involves extensive practical knowledge gained through experience and/or specific training. Assistants carry out tasks, procedures, and/or computations that can be performed by application and adaptation of standardized techniques and methods and use of practical judgment with only an elementary grasp of the basic principles of environmental protection work. Environmental protection assistants perform duties such as reviewing files and records and summarizing relevant factual information in connection with compliance reviews; providing information to the regulated community on procedural requirements and formats for filing permits, grant applications, compliance-related forms, etc.; and collecting, tracking, computing, and summarizing statistical data in chart and narrative form.

The appellant's technical report and budget program work is typical of environmental assistant work. It requires practical knowledge of environmental protection work including an understanding of environmental laws sufficient to understand the regulatory basis of program requirements, e.g., conducting population surveys of protected species, air quality compliance requirements for both stationary and mobile sources of air pollution, and detention to prevent contaminant runoff. The appellant uses standardized methods and techniques when he inspects hazardous material storage cabinets and assists the technical staff in determining oil spill containment supply and positioning requirements. Typical of the GS-029 series, the appellant works on portions of projects devised and managed by assigned technical division staff such as conducting COR reviews based on the technical requirements defined by the assigned environmental engineer. Therefore, the appellant's position is properly allocated as Environmental Protection Assistant, GS-029.

There are no published grade-level criteria for the GS-029 series. The *Introduction to the PCS's* states that when there is no directly applicable PCS, a position should be classified using criteria that are comparable in scope and difficulty and that describe similar subject matter and functions. We find that the appellant's work is best evaluated by application of the grading criteria in the Guide. Administrative program support work of the kind described in the Guide is performed in

offices, shops, laboratories, hospitals, and numerous other settings in all Federal agencies. Our analysis of the work follows.

### **Grade determination**

The Guide describes the general characteristics of each grade level from GS-1 through GS-7 and uses two evaluation factors for grading purposes: *Nature of assignment* (which includes the knowledge required and complexity of the work) and *Level of responsibility* (which includes supervisory controls, guidelines, and contacts).

#### *Nature of assignment*

At the GS-7 grade level, the highest level described in the Guide, work consists of specialized duties with continuing responsibility for projects, questions, or problems that arise within an area of a program or functional specialty as defined by management. Assignments involve a wide variety of problems or situations common to the segment of the program or function for which the employee is responsible. Each assignment typically consists of a series of related actions or decisions prior to final completion based on the development and evaluation of information that comes from various sources. The work involves identifying and studying factors or conditions and determining their interrelationships and taking or recommending actions that are consistent with the objectives and requirements of the program or functions. The work requires knowledge and skill to recognize the dimensions of the problems involved, collect the necessary information, establish the facts, and take or recommend action based upon application or interpretation of established guidelines and practical knowledge of the operations, regulations, principles, and peculiarities of the assigned program, function, or activity.

Illustrative of such work is advising the manager of a single-function field office on the practical and technical aspects of office administration including budgeting, purchasing, supply management, personnel administration, data processing, and files management and performing staff support work in each of these areas. The employee collects data for the office operating budget, reviews submissions of office staff assistants for proper format and compliance with agency budget requirements, and consolidates material into an annual office budget; sets up controls to monitor expenses during the year; and recommends budget adjustments including restructuring budget allocations or work plans to deal with changing situations such as varying costs for equipment parts, or services, and changes in the availability of funds. The employee updates the office's supply sources catalogues; purchases supplies, equipment, and services through open market purchase by blanket agreement, cash or field purchase order, or similar methods; processes and tracks purchase documents; completes requests for personnel actions and writes PD's; and distributes forms and instructions for annual performance ratings and ensures timely and proper completion. The work includes conducting local recruitment and holding new employee orientation sessions and maintaining and revising the office filing system. The employee collects program information from technical specialists, enters it into electronic or manual information systems, and searches for it as requested; schedules use and maintenance of computer equipment; enters and retrieves information from a variety of systems; and helps field office employees use the various computer systems.



The employee maintains and transfers funds between several unrelated appropriated fund accounts and several revolving fund accounts. The accounts are subject to different regulations and procedures. The work also involves initiating personnel actions and tracking virtually all financial, personnel, supply, and other administrative transactions as the documentation flows through the office in both electronic form and on paper. The work requires general knowledge of the mission and functions of the field office and an understanding of how the office's various administrative services relate to one another and how they relate to the office's mission. The work also requires broad understanding and detailed procedural knowledge of budget, purchasing, personnel, and information processing functions of the field office.

The appellant's work meets but does not exceed the GS-7 grade level. His work consists of specialized duties with continuing responsibility for questions and problems that arise within his area of a program specialty, i.e., environmental program tracking and reporting. The assignments involve a wide variety of problems or situations common to this function, e.g., assuring that EQR inspection reports are complete and contain required corrective action plans, and identifying funds susceptible to reprogramming in response to budget cuts and/or to meet program changes. While the division does not have other staff assistants who submit budget data, the appellant performs equivalent budget review and consolidation work from information prepared by media specialists for their respective projects. The budget process is interrelated with other program planning processes. Each report consists of a series of related actions or decisions prior to completion, and decisions or recommendations are based on the development and evaluation of information that comes from various program sources. The work involves identifying and studying factors or conditions and determining their interrelationships, e.g., the interrelationship among the EPR, formal budget process, and annual work plan and their impact on meeting EQR compliance requirements.

As at the GS-7 grade level, the appellant must be concerned about taking or recommending actions that are consistent with the objectives and requirements of the program or functions, e.g., developing budget reprogramming recommendations based on program priorities driven by compliance and other regulatory requirements. Illustrative of such work are the appellant's recommendation to establish a basic order agreement with a Coast Guard contractor to clean up oil spills; developing staff training and travel costs based on historical information and pending changes in Federal, State, and local environmental laws; and developing a decrement list to deal with proposed budget cuts. These functions require the knowledge and skill to recognize the dimensions of the problems involved, collect the necessary information, establish the facts, and take or recommend action based upon application or interpretation of established guidelines and practical knowledge of the operations, regulations, principles, and peculiarities of the assigned program, function, or activity. The appellant's inspectional and COR duties require the application of equivalent related knowledge, skill, and judgment. Accordingly, this factor is evaluated at the GS-7 grade level.

#### *Level of responsibility*

At the GS-7 grade level, the highest level described in the Guide, the supervisor makes assignments in terms of objectives, priorities, and deadlines. The employee independently completes assignments using accepted practices and resolves most conflicts that arise. Completed work is evaluated for appropriateness and conformance to policy. The employee

encounters a wide variety of problems and situations which require choosing alternative responses. Guides such as regulations, policy statements, and precedent cases tend to be general and descriptive of intent, but do not specifically cover all aspects of the assignments and apply less to specific actions and more to the operational characteristics and procedural requirements of the program or function. Employees must use significant judgment and interpretation to apply the guides to specific cases and adapt or improvise procedures to accommodate unusual or one-of-a-kind situations. The employee serves as a central point of contact to provide authoritative explanations of requirements, regulations, and procedures, and to resolve operational problems or disagreements affecting assigned areas.

Illustrative of such work is functioning as the office support advisor previously described when the supervisor makes assignments by defining objectives, priorities, and deadlines. The employee works independently, using a general understanding of the expected outcomes and the scope of the assignments, and draws upon experience in resolving the more difficult situations that occasionally arise. The work is reviewed for technical accuracy, soundness of judgment, and adherence to program requirements and objectives. The employee uses a large number of guidelines covering the various aspects of the job. The work requires judgment in selecting the correct part of the most appropriate guideline to apply to each of a large variety of actions, such as budget estimates, tracking annual spending, and initiating personnel actions. When guidelines change, the employee may obtain assistance, as needed, from staff specialists at a higher echelon. Most of the time, the employee follows procedures, formats, and practices specified in agency supplements to broad, Governmentwide guidelines. However, situations often arise which are not specifically covered by guidelines, requiring the employee to apply general principles to specific situations. Contacts involve developing and exchanging information, resolving operating problems and making recommendations. The contacts are usually cooperative, but there may be disagreements as to the facts in a case, or disagreements on the interpretation or application of regulations and guidelines to specific situations.

As at the GS-7 grade level, the appellant receives assignments in terms of objectives, priorities, and deadlines, e.g., producing complete program reports and drafting the division budget and annual work plan. He independently completes assignments using accepted practices and resolves most conflicts that arise, e.g., working with media specialists to refine project estimates, developing all necessary procurement documents, and overseeing the resultant contracts and/or purchasing actions. The appellant encounters a wide variety of problems and situations which require choosing alternative responses, e.g., developing budget decrement lists based on program priorities and attending budget meetings with the division chief. Program regulations and policy statements tend to be general and descriptive of intent, but do not specifically cover all aspects of the assignments and apply less to specific actions and more to the operational characteristics and procedural requirements of the program or function. For example, the appellant contacts AEC to clarify the intent of changes in reporting requirements, typically discussing scenarios that he has devised to test his understanding of the changes. As at this level, he uses significant judgment and interpretation to apply the guides to specific cases and adapt or improvise procedures to accommodate unusual or one-of-a-kind situations, e.g., determining that the potential spill response contractor had technically capable subcontractors who were close enough to the installation to respond timely. He serves as a central point of contact to provide authoritative explanations of requirements, regulations, and procedures and to resolve operational problems or disagreements affecting division support issues, e.g., briefing senior

staff in the ISR, Part II. The appellant's contacts with AEC and other outside personnel are to resolve reporting requirements. His completed work is evaluated for appropriateness and conformance to policy. Accordingly, this factor is evaluated at the GS-7 grade level.

*Summary*

In summary, since both factors are credited properly at the GS-7 grade level, we find that the appellant's position is properly evaluated at the GS-7 grade level.

**Decision**

The appellant's position is properly classified as Environmental Protection Assistant, GS-029-7.