

120 Howard Street, Room 760
San Francisco, CA 94105



**Classification Appeal Decision
Under Section 5112 of Title 5, U.S. Code**

Appellant:	[appellant's name]
Position:	Supervisory Industrial Hygienist GS-690-12
Organization:	Department of the Navy [a division] [city, state]
Decision:	Supervisory Industrial Hygienist GS-690-13
OPM decision number:	C-0690-13-01

Signed by Denis J. Whitebook
DENIS J. WHITEBOOK
CLASSIFICATION APPEALS OFFICER

March 20, 1997
DATE

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

Since this decision 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 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:

[appellant's name and address]

[name and address of appellant's servicing personnel office]

[name and address of department regional office]

[name and address of higher level personnel office]

Introduction

On September 24, 1996, the San Francisco Oversight Division of the U.S. Office of Personnel Management (OPM) received a classification appeal from [appellant's name]. His position is currently classified as Supervisory Industrial Hygienist GS-690-12. However, he believes his position should be graded at GS-13. He works in the Occupational Safety and Health Branch; Safety Division; Safety, Security and Environmental Department; [division name]; U.S. Department of the Navy; [city, state]. We have accepted and decided his appeal under 5 U.S. Code 5112.

General Issues

The appellant notes that a position similar to his own in the Department of the Army is graded at GS-13. The appellant also compares his current position to his former position observing that while his current position contains higher level duties the grade is the same. Finally, the appellant states that the duties he now performs were formerly assigned to a position graded at GS-13. By law, we must classify positions solely by comparing their current duties and responsibilities to OPM standards and guidelines (5 U.S. Code 5106, 5107, and 5112). Since comparison to standards is the exclusive method for classifying positions, we cannot compare the appellant's position to others as a basis for deciding his appeal.

The appellant states he has been performing higher level duties since December 25, 1994. The U.S. Comptroller General states that an ". . . employee is entitled only to the salary of the position to which he is actually 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 individual is actually promoted. . . . Consequently, backpay is not available as a remedy for misassignments to higher level duties or improper classifications" (CG decision [number], [date]).

The appellant mentions his personal qualifications, including various training and certification programs he has completed. Qualifications are considered in classifying positions. However, these are qualifications required to perform current duties and responsibilities, not qualifications that appellants personally possess. Therefore, we could not consider the appellant's personal qualifications, except insofar as they were required to perform his current duties and responsibilities. To the extent that they were needed for this purpose, we carefully considered them.

The agency evaluation notes the small number of subordinates supervised by the appellant. The size of the appellant's subordinate workforce is only relevant insofar as it may be considered under classification criteria. Agency management's decision to assign supervisory responsibilities to the appellant is not subject to OPM review. OPM's sole responsibility is to determine the proper classification of the appellant's position given the duties and responsibilities assigned by management and performed by the appellant.

In reaching our classification decision we have carefully reviewed all of the information of record furnished by the appellant and his agency, including his official position description [PD number],

and the results of telephone interviews conducted with the appellant, his immediate supervisor, and his department head.

Position Information

The appellant performs a combination of supervisory and nonsupervisory duties. The appellant supervises three subordinate government employees (two occupational safety and health specialists, and one safety engineer) and two contract employees (performing supporting clerical and technician work) in the Occupational Safety and Health Branch. The appellant's unit is responsible for safety and occupational health at the installation excluding the explosives program. The appellant's nonsupervisory duties include providing expertise and advice in the area of industrial hygiene to the Command's safety and occupational health manager, other managers, and employees; and serving as command Gas Free Engineer, Laser Safety, and Process Safety program manager.

The appellant's PD, other material of record, and the results of our telephone interviews provided much more information about his duties and responsibilities and how they are performed.

Series, Title, and Appropriate Guide

We find that the appellant's position is best covered by the Industrial Hygiene Series, GS-690 and titled Supervisory Industrial Hygienist. The appellant's position is mixed in that he performs both supervisory and nonsupervisory work. The appellant's supervisory work is properly evaluated by using the OPM General Schedule Supervisory Guide (GSSG) dated April 1993. The appellant's nonsupervisory work is properly evaluated by using the Position Classification Standard for the Industrial Hygiene Series GS-690. Neither the appellant nor his agency disagrees with the above findings.

A threshold criterion for coverage by the GSSG is that a position spend at least 25 percent of the work time on supervisory duties (see page 1). The appellant's official position description, certified as accurate by both the appellant and his supervisor, states that the appellant spends 25 percent of his time on supervisory duties. The agency evaluation statement introduces some uncertainty with the following statement: "Full credit was given for the 25% supervisory function, it is doubtful that the supervision of three positions would require 25% of the position's time." Our telephone interviews with both the appellant and his department head confirm that at least 25 percent of the appellant's time is spent on supervisory duties. The official position description documents that 25 percent of the time is spent on supervisory duties. The agency has provided no explanation or evidence in the documents of record to support the claim that the 25 percent figure is doubtful. Finally, the agency itself has accepted the 25 percent figure by its classification of the appellant's position as supervisory. The evidence cited immediately above leads us to conclude that the agency is correct in its finding that the appellant spends at least 25 percent of his work time on supervisory duties.

For mixed positions like the appellant's, the supervisory and nonsupervisory duties are evaluated separately and the position is graded in keeping with those duties that are officially assigned on a regular and continuing basis, occupy a significant and substantial (defined as at least 25 percent) portion of the work time, and the higher level skill and knowledge would be required in recruiting for the position if it became vacant (see page 23 of the *Introduction to the Position Classification Standards*). Below we will find that the appellant's supervisory duties are properly graded at GS-13 and occupy a significant portion of his time. The appellant's supervisory duties are officially assigned and would have to be considered in recruiting for the position if it became vacant. Thus, the appellant's position is properly graded at GS-13. The appellant's nonsupervisory duties could affect grade level only if they were graded at GS-14 or above by means of the standard for the industrial hygiene series. The appellant's nonsupervisory duties do not approach the GS-14 level (see OPM Benchmark Description GS-690-14-01). Therefore, the Position Classification Standard for the Industrial Hygiene Series GS-690 cannot affect the grade of the appellant's position, and so will not be applied in this case.

Grade Determination

The GSSG uses six factors: Program scope and effect, Organizational setting, Supervisory and managerial authority exercised, Personal contacts, Difficulty of typical work directed, and Other conditions. Page 8 of the GSSG indicates that if one level of a factor or element is exceeded but the next higher level is not met, the lower level must be credited.

Factor 1, Program scope and effect -- Level 1-2 -- 350 points

This factor contains two elements: Scope and Effect. We discuss each below.

Scope

The appellant's position fully meets and somewhat exceeds Level 1-2 criteria. The appellant's position exceeds Level 1-2 criteria in that the appellant directs professional work rather than the administrative or technical work expected at Level 1-2, and the [division name] is larger than the typical agency field or area office described by the guide at Level 1-2.

Level 1-3 criteria are not met. At Level 1-3 the program segment and work directed have coverage encompassing a major metropolitan area, a State, or a small region of several States. The appellant directs work with coverage of the [a division], [city, state]. This coverage is not equivalent to the Level 1-3 criteria described immediately above.

There is an alternative criterion for meeting Level 1-3. This involves providing complex administrative, technical, or professional services that directly and significantly affect a large or complex multimission military installation. The appellant's position does not meet this alternative criterion. In determining whether the appellant's installation is comparable to a large or complex multimission military installation we consulted the definition provided on page 4 of the GSSG. By

definition, a multimission military installation involves either the support of a serviced population in excess of 4,000, or four or more of the following activities: a garrison; a medical center or large hospital and medical laboratory complex; multimillion dollar (annual) construction, civil works, or environmental cleanup projects; a test and evaluation center or a research laboratory of moderate size; an equipment or product development center; a service school; a major command; a supply or maintenance depot; or equivalent activities (see pages 4-5 of the GSSG). The appellant's position provides direct support to a serviced population of approximately 3,550 (including civilian, military, and contractor personnel). Serviced population is below the 4,000 minimum required by the GSSG and so the appellant's installation may not be characterized as a large military installation as this term is defined in the GSSG. The appellant's position does not provide administrative service to activities equivalent to four or more of those listed above and so the appellant's installation may not be characterized as a complex multimission military installation as this term is defined in the GSSG.

Since the scope of work directed by the appellant somewhat exceeds Level 1-2 but falls short of Level 1-3, it must be evaluated at Level 1-2.

Effect

The appellant's position meets and somewhat exceeds Level 1-2 criteria. As expected at Level 1-2, the appellant's subordinate organization provides products and services that significantly affect installation operations. The appellant's position exceeds Level 1-2 criteria in that the [division name] is larger than the area office expected at Level 1-2.

Level 1-3 criteria are not met. At Level 1-3 the work directly and significantly impacts a wide range of agency (i.e., Department of the Navy) activities, the work of other agencies, or the operations of outside interests, or the general public. The appellant's subordinate organization provides service to the employees of the [division name]. The work directly affects the employees and managers of the installation. The work generally does not have a direct and significant impact on Department of the Navy activities, the work of other agencies, the operation of outside interests, or the general public.

Level 1-3 may also be met by providing administrative service to a large complex multimission organization. For the reasons stated under Scope above, the [division name] is not equivalent to a large or complex multimission organization as this term is defined in the GSSG.

Since the effect of work directed by the appellant somewhat exceeds Level 1-2 but falls short of Level 1-3, it must be evaluated at Level 1-2 for Effect.

With both Scope and Effect evaluated at Level 1-2, Level 1-2 is proper for Factor 1 overall.

Factor 2, Organizational setting -- Level 2-1 -- 100 points

The appellant's position is properly evaluated at Level 2-1. As discussed at that level, his position is accountable to a position two or more levels below the first flag officer in the direct supervisory chain.

Factor 3, Supervisory and managerial authority exercised -- Level 3-2 -- 450 points

Both we and the agency agree that Level 3-1 criteria are fully met. At Level 3-1 the supervisor assigns and reviews work on a daily, weekly, or monthly basis; assures that production and accuracy requirements are met; approves leave; recommends performance standards and ratings; and exercises four or five of the authorities and responsibilities described at Level 3-2c.

In addition to the Level 3-1 criteria, we find that the criteria of Level 3-2c are also met. Supervisors at Level 3-2c must carry out at least three of the first four, and a total of six or more of the 10 responsibilities listed on pages 16 and 17 of the GSSG. The appellant's official position description (see the second paragraph under heading II) indicates that he assigns work, evaluates work performance, and gives advice, counsel, or instruction to employees on both work and administrative matters. Thus, the appellant carries out at least responsibilities 1, 3, and 4 described on page 16. In addition, the appellant selects or recommends selection for vacancies, initiates disciplinary actions, hears and resolves complaints from employees referring group grievances and more serious unresolved complaints to a higher level supervisor (inherent in the ability to initiate disciplinary actions and confirmed on our telephone interview), has individual development plan meetings at least annually to discuss and recommend needed training (confirmed by our telephone interview), has found ways to improve the production and quality of work (e.g., automating deficiency abatement records, and changing the format for recording injuries and illnesses), and develops performance standards (confirmed by our telephone interview). Thus, the appellant carries out responsibilities 5, 6, 7, 8, 9, and 10. The appellant carries out three of the first four, and at least nine of the ten responsibilities listed at Level 3-2c.

Factor 3 is properly evaluated at Level 3-2.

Factor 4, Personal contacts

This factor contains two subfactors: Nature of contacts and Purpose of contacts. We discuss each subfactor below.

Subfactor 4A, Nature of contacts -- Level 4A-2 -- 50 points

The nature of the appellant's contacts warrants Level 4A-2. As expected at that level, the appellant has frequent contacts with higher ranking managers throughout the installation, a variety of occupational safety and health professionals both within the installation and at higher organiza-

tional levels within the Navy, and operating level employees of the U.S. Department of Labor's Occupational Safety and Health Administration.

The appellant's contacts fall short of Level 4A-3. The record indicates that unlike supervisors at Level 4A-3, the appellant does not frequently contact high ranking military or civilian managers at the bureau and major organization level of the Navy; key staff of public interest groups; elected or appointed representatives of state and local governments; journalists representing influential city or county media; congressional committee and subcommittee staff assistants; contracting officials and high level technical staff of large industrial firms; local officers of regional or national trade associations, public action groups, or professional organizations; or State and local government managers doing business with the agency.

Subfactor 4B, Purpose of contacts -- Level 4B-2 -- 75 points

The purpose of the appellant's contacts warrants Level 4B-2. As expected at Level 4B-2 the purpose of contacts is to ensure that information provided is accurate and consistent; to plan and coordinate the work directed with that of others outside the subordinate organization and to resolve differences of opinion among managers, supervisors, employees, contractors, or others.

Level 4B-3 criteria are not fully met. The appellant's work in managing his branch does not require him to regularly justify, defend, or negotiate in representing his subordinate organization, in obtaining or committing resources, and in gaining concurrence with required and proposed administrative actions.

Factor 5, Difficulty of typical work directed -- Level 5-7 -- 930 points

The appellant supervises three nonsupervisory civil service positions engaged in the mission oriented work of his unit: one Safety Engineer GS-803-12, one Safety and Occupational Health Specialist GS-018-12, and one Safety and Occupational Health Specialist GS-018-9. In addition, the appellant supervises two contract employees who perform general clerical and technical work properly classified to the Safety Technician Series GS-019. For purposes of this evaluation, we accept the agency's classification of the three civil service positions supervised by the appellant. However, devotion of at least 25 percent of the appellant's time to supervision of his relatively small workforce may result in closer supervision of the appellant's subordinate GS-12's than is reflected in their position descriptions. Before implementing this decision, the agency should confirm that the supervisory control described in the position descriptions for the appellant's two GS-12 subordinates is accurate.

GS-12 best characterizes the nature of the basic nonsupervisory work performed by the appellant's branch, and the record indicates GS-12 constitutes at least 25 percent of the branch's workload. Thus, the two principal criteria for level of base work are met by the GS-12 grade. However, the agency evaluation eliminates the GS-12 grade from consideration for two reasons: the GS-12's have an extraordinary degree of independence from supervision, and since the

incumbent does not have a degree in engineering he is incapable of technically supervising the GS-12 safety engineer. We disagree with both these points.

First, there is no evidence in the file to suggest that either of the subordinate GS-12's operate with an extraordinary degree of supervision. Both positions experience just the supervision one expects for a GS-12. GS-12 is a relatively high nonsupervisory grade that presumes a high level of technical competence and substantial freedom from close supervision. The GSSG has not put a grade ceiling on base work. The grading of a subordinate position at GS-12 is alone insufficient to eliminate it from consideration as base work. For both subordinate GS-12 positions, Supervisory Controls are rated at Factor Level 2-4. Factor Level 2-4 provides for positive supervisory involvement in work initiation and planning, interim oversight activities, and review of completed work. Level 2-4 is an appropriate and normal level of supervision for an employee at the GS-12 level. We find that the appellant's subordinate GS-12's do not operate with an extraordinary degree of supervision as this term is used in the GSSG.

Second, the agency has eliminated the Safety Engineer GS-803-12 from consideration reasoning that since the appellant is not a professional engineer he cannot technically supervise this position. The GSSG requires that work be excluded “. . . for which the supervisor or a subordinate does not have the responsibilities defined under Factor 3 (see the bottom of page 23 of the GSSG).” Factor 3 requires technical knowledge of the work supervised sufficient to review work, assure production and accuracy requirements are met, and recommend performance standards (see page 15 of the GSSG). The GSSG does not require that a supervisor be qualified to *perform* the work of his subordinates. In this case, the appellant is not a safety engineer and so would be incapable of performing some, but not all, of the duties assigned to his subordinate safety engineer. However, the appellant is a certified safety professional. He has a professional degree and advanced training in industrial hygiene. He has significant experience in the safety field. The safety engineer and the appellant apply their training to similar issues. The appellant's standing as a professional in a closely related field provides him with a sound technical base on which to judge the success of the work completed by his subordinate safety engineer. The appellant's department head confirmed that the appellant is responsible for reviewing the work of the safety engineer, is held accountable for the production and accuracy of the work of the safety engineer, and writes the performance standards for the position of safety engineer. We find that the appellant exercises at least the minimum supervisory responsibilities described under Factor 3 for all of his subordinates. Thus, the GS-12 safety engineer must be considered when establishing level of base work under Factor 5.

With the highest level of base work evaluated at GS-12, the appellant's position warrants Level 5-7 (see page 24 of the GSSG).

Factor 6, Other conditions -- Level 6-4 -- 1120 points

Under the GSSG, there is a direct linkage of the criteria for Factors 5 and 6. The latter factor measures the extent to which various conditions contribute to the difficulty and complexity of

carrying out supervisory duties, authorities, and responsibilities. The difficulty of work is measured primarily by the level of work credited under Factor 5. Complexity is measured by the level of coordination required.

The agency has awarded Level 6-3. At Level 6-3 supervision and oversight requires coordination, integration, or consolidation of administrative, technical, or complex technician or other support work comparable to GS-9 or GS-10. The appellant's supervision of GS-12 level professional work meets and exceeds Level 6-3 criteria.

Level 6-4 includes work requiring substantial coordination and integration of a number of major work assignments, projects, or program segments of professional, scientific, technical, or administrative work comparable in difficulty to the GS-11 level. The appellant's position exceeds Level 6-4 in terms of difficulty of work as reflected in the level of base work directed (i.e., GS-12) and meets the complexity criteria. For example, as expected at Level 6-4 the appellant integrates the work of his branch with the work of the division and department, and he reviews and approves reports and other action documents to assure that they accurately reflect the policies and position of the division and the requirements of the Department of the Navy.

The appellant's position meets the Level 6-5 criterion for difficulty of work (i.e., level of base work directed GS-12). However, his subordinate organization is too small to make major recommendations in at least three of the areas listed on page 28. Level 6-5 is not fully met.

While the appellant's position meets, and in one respect exceeds Level 6-4 criteria, Level 6-5 criteria are not fully met. Therefore, the appellant's position warrants Level 6-4.

Summary

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

Factor	Level	Points
1. Program scope and effect	1-2	350
2. Organizational setting	2-1	100
3. Supervisory and managerial authority exercised	3-2	450
4. Personal Contacts		
4A. Nature of contacts	4A-2	50
4B. Purpose of contacts	4B-2	75
5. Difficulty of typical work directed	5-7	930
6. Other conditions	6-4	1,120
Total points:		3,075

The 3,075 total points fall within the GS-12 range (2,755 to 3,150) of the point-to-grade conversion chart on page 31 of the GSSG. The adjustment conditions on page 32 of the GSSG instruct that when the grade resulting from the application of the conversion chart is not higher than the base grade of work supervised as determined under Factor 5 the final grade will be one grade above the base grade of work directed provided the base level involves at least 25 percent of the workload directed and supervisory authority and responsibility meet at least Factor Level 3-1. The appellant's position meets these criteria. Thus, the final grade of the appellant's position is adjusted to GS-13.

Decision

The appellant's position is properly classified as Supervisory Industrial Hygienist GS-690-13.