U.S. Office of Personnel Management
Classification Appeal Decision
Under section 5112 of title 5, United States Code

Appellant: [Appellant]

Agency classification: Consumer Safety Inspector (In-Plant HACCP)
GS-1862-9

Organization: District [number] Inspection Operations
Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
U.S. Department of Agriculture
[Location]

OPM decision: Consumer Safety Inspector
(parenthetical at agency discretion)
GS-1862-9

OPM decision number: C-1862-09-02

/s/ Judith A. Davis (for)

Robert D. Hendler
Classification and Pay Claims
Program Manager
Merit System Audit and Compliance

6/18/2012
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:

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Introduction

On May 31, 2011, Chicago Oversight of the U.S. Office of Personnel Management (OPM) accepted a position classification appeal from [appellant]. The appellant's position is classified as Consumer Safety Inspector (CSI) (In-Plant HACCP [Hazard Analysis and Critical Control Point]), GS-1862-9, but he believes it warrants a higher grade. The appellant works in District Inspection Operations, District [number], Regulatory Operations (RO), Office of Field Operations, Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA), in [location]. We received the final documents constituting the agency administrative report (AAR) with the receipt of the revised standard position description (SPD) on April 17, 2012. We have accepted and decided this appeal under section 5112 of title 5, United States Code (U.S.C.).

Background

The appellant previously occupied a position of Consumer Safety Inspector, GS-1862-10/11, which was downgraded by his agency effective August 8, 2004, based on an internal classification review.

General issues

The appellant believes his position is classified inconsistently with other positions that perform similar work, including the FSIS positions of Enforcement Investigations and Analysis Officer (EIAO), who occupies a Consumer Safety Officer (CSO), GS-696-11, professional position), Relief CSIs classified at the GS-10 level, and an Agricultural Commodities Grader-in-Charge, GS-1980-10. In addition, he asserts he has obtained information, including PDs and SF-50s, for several Department of Defense positions classified as Agricultural Commodities Grader (Processed Food and Vegetables), GS-1980-11, that oversee the processing of Meals Ready to Eat at three plants very similar to those he oversees. By law, we must classify positions solely by comparing current duties and responsibilities to OPM position classification standards (PCS) and guidelines (5 U.S.C. 5106, 5107, and 5112). In adjudicating this appeal, our responsibility is to make our own independent decision on the proper classification of the appellant's position. Since comparison to PCSs is the exclusive method for classifying positions, we cannot compare the appellant's position to others, which may or may not be classified correctly, as a basis for deciding his appeal.

Although classification by position-to-position comparison is prohibited by law, we note that in support of his assertion that he performs duties much like the EIAO/CSO, GS-696-11, position, the appellant described the time an EIAO was required to perform an assessment of the methods and techniques used at one of his work facilities, and he had to explain to him what he was observing each morning during assessment of the canning processes and the functions of the different equipment. He notes that the EIAO, who had attended Food Safety Regulatory Essentials (FSRE) training for canning, did not possess the adequate knowledge base necessary to understand the complexity of the types of operations he was viewing. However, EIAOs assist inspection personnel, as needed, in the consistent nationwide implementation of significant new inspection procedures designed to verify that establishments meet regulatory requirements for

food safety and other consumer protection. In doing so, they apply their knowledge of microbiology, food science, biology, chemistry, and/or agriculture to assess the scientific adequacy of HACCP plans, Sanitation Performance Standards (SPSs), Sanitation Standard Operating Procedures (SSOPs), microbiological verification sampling protocols, or other process control measures implemented by regulated establishments. The EIAOs also have the authority to render formal appeal determinations when plant management has not resolved compliance issues raised through the Non-Compliance Record (NR) process and informal discussions and more formal measures must be taken, such as the formal Notice of Intended Enforcement (NOIE) issuance and noncompliance sanctioning methodology. Thus, the very nature and purpose of EIAO/CSO work is materially different from that performed by the appellant.

Like OPM, the appellant's agency must classify positions based on comparison to OPM standards and guidelines. However, the agency also has primary responsibility for ensuring that its positions are classified consistently with OPM appeal decisions. If the appellant considers his position so similar to others that they all warrant the same classification, he may pursue the matter by writing to his human resources office. In doing so, he should specify the precise organizational location, classification, duties, and responsibilities of the positions in question. If the positions are found to be basically the same as his, the agency must correct the classification of the other positions to be consistent with this appeal decision. Otherwise, the agency should explain to him the differences between his position and the others.

A position description (PD) is the official record of the major duties and responsibilities assigned to a position by a responsible agency official; i.e., a person with authority to assign work to a position. A position represents the duties and responsibilities that comprise the work performed by an employee. Classification appeal regulations permit OPM to investigate or audit a position and decide an appeal based on the duties assigned by management and performed by the employee. We classify a real operating position, not simply the PD. Therefore, this decision is based on the actual work assigned to and performed by the appellant.

The appellant also indicates one of the biggest demands of the position involves the increase in the volume of work for which he is responsible as Inspector-in-Charge (IIC). This refers to the increase in the number of plants the appellant is responsible for, and the increase in number and sophistication of processes used at these establishments. However, the issue of volume of work is listed as a factor which cannot be considered in determining the grade of a position (*The Classifier's Handbook,* chapter 5).

The appellant disagrees with the agency grade-level determination made by application of the FSIS Internal Classification Guide for Consumer Safety Inspector, GS-1862. However, since by law we must classify positions by application of OPM PCSs and guidelines, his agency's application of internal classification guidance to his position is not germane to OPM's appeal adjudication process.

The appellant makes various other statements about the agency and its evaluation of his position. However, 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. In adjudicating this appeal, our responsibility is to make our own independent decision based on the

proper classification of the position, and we will consider the evidence provided by the appellant in our analysis.

Position information

The appellant occupies an RO field position. He serves in a patrol assignment which requires him to travel and perform inspection at several establishments located in [City, State]. RO administers nationwide public health regulatory programs for meat, poultry, and egg product establishments through a field structure consisting of 15 districts and a widely dispersed workforce. The appellant works under the general supervision of a Supervisory Veterinary Medical Officer, AR-701-5S (equivalent to GS-701-13).

As IIC, the appellant is responsible for ensuring that regulated establishments produce a safe product by executing appropriate inspection methods, determining noncompliance with regulatory requirements, documenting noncompliance, and initiating enforcement action where warranted. This includes ensuring operations in the Federally inspected establishments comply with requirements in the most current directives and any specific production controls developed as guidance to the industry are adhered to during production. In these directives, the term Inspection Program Personnel (IPP) refers to both CSIs like the appellant and Import Inspection Personnel.

Food processing is the set of methods and techniques used to transform raw ingredients into food or to transform food into other forms for consumption by humans or animals either in the home or by the food processing industry. Food processing typically takes clean, harvested crops or butchered animal products and uses these to produce attractive, marketable, and often long shelf-life food products.

A fundamental step in producing products that are not adulterated is to produce the product in accordance with the elements of a valid HACCP system. The HACCP system, referenced in 9 CFR 417.4, is defined in 9 CFR 417.1 as "the HACCP plan in operation, including the HACCP plan itself." The HACCP plan in operation includes hazard analysis, the HACCP plan, supporting documentation including prerequisite programs used to make decisions in the hazard analysis, and HACCP records generated on an ongoing basis. CSIs must focus on the overall effectiveness of the establishment's HACCP system. By verifying that an establishment is implementing an effective HACCP system, FSIS can best ensure that the establishment is producing wholesome, unadulterated products.

The establishment is responsible for all aspects of developing and implementing the HACCP plan including validation of the adequacy of the process that insures all food safety hazards are under control. Validation is the process of demonstrating that the HACCP system as designed can adequately control identified hazards to produce a safe product. There are two distinct elements to validation: (1) the scientific or technical justification or documented basis for the system, which consists of having scientific and technical documentation that demonstrate the designed process can control the identified hazard (in other words, will the HACCP work in theory) and, (2) the initial practical demonstration proving the system can perform as expected.

This consists of having records which demonstrate the plan in operation; i.e., that the HACCP plan achieves what it is expected to achieve (in other words, does the plan work in practice.)

Meat processing facilities are required to develop scientifically sound, problem prevention-oriented HACCP plans, broken down into nine identified meat production processes (i.e., Slaughter, Raw Ground, Raw-Not Ground, Not Heat Treated-Shelf Stable, Heat Treated-Shelf Stable, Thermally Processed-Commercially Stable, Fully Cooked-Not Shelf Stable, Heat Treated But Not Fully Cooked-Not Shelf Stable, and Product With Secondary Inhibitors-Not Shelf Stable). FSIS has developed eleven generic HACCP models for the processes listed above and two more specific processes, Mechanically Separated (Species)/Mechanically Deboned Poultry and Irradiation (including all forms of approved irradiation procedures) to assist plants develop their plans. Under the HACCP umbrella, plants perform microbial tests on their own. These facilities operate under one or more HACCP plans developed internally, and as the CSI, the appellant verifies the procedural requirements in these plans are being properly implemented within regulatory requirements.

The appellant's regulatory oversight activities in processing facilities relate to application of SPSs and SSOPs, pathogen reduction and food safety verification procedures, and related consumer protection issues; e.g., adulteration and mislabeling. Verification activities typically involve direct observation of such factors as the facility's pest control procedures, adequacy of light and ventilation, plumbing and sewage systems, water use/reuse practices, condition and use of processing equipment and utensils, and employee hygiene. The appellant verifies that meat and poultry slaughter and/or processing establishments' SPSs, SSOPs, and HACCP plans meet regulatory requirements and are being executed effectively to prevent unsanitary conditions and adulteration of product.

The appellant independently performs Hazard Analysis Verification (HAV), which is an analytical review of the establishment's production process in order to ensure regulatory obligations to conduct a food safety hazard analysis are met. He reviews records, observes plant operations, and conducts hands-on verification to ensure compliance with regulatory requirements. He observes or detects noncompliance with applicable regulations. He then documents in writing the nature of noncompliance, the specific regulatory requirements the plant is not meeting, and identifies applicable violations of the Federal Meat Inspection Act (FMIA), the Poultry Products Inspection Act (PPIA), or the Egg Products Inspection Act (EPIA). He prepares detailed NRs to document noncompliance with regulatory requirements and determines when regulatory control action is necessary. He assesses whether the plant's corrective or preventative actions are acceptable and effective, if there are trends in noncompliance, or if enforcement action is warranted. The appellant also conducts regulatory oversight activities inside plants in matters relating to other consumer protections (e.g., economic adulteration and misbranding).

In April 2011, FSIS launched the Public Health Information System (PHIS). It is a Web-based data analytic system developed as part of the agency's effort to collect, consolidate, and analyze data that will replace many of FSIS' existing systems. PHIS does not create new requirements or regulations for establishments regarding domestic inspection. It is designed to integrate and automate paper-based processes into one comprehensive and fully automated data-driven

inspection system. PHIS prioritizes inspection tasks and maintains a "task list" of inspection procedures to be performed in each plant based on the plant's profile. Inspectors select tasks from the task list and put them on their calendars, whereas the previous system randomly generated an inspection schedule by adding specific tasks to certain days. PHIS is set up to guide in-plant inspection personnel to focus their attention on specific aspects of an establishment's food safety systems, and is expected to enable inspection personnel to better identify shortcomings in the food safety systems and anticipate problems before they result in adulterated products entering commerce.

The appellant has frequent contact with plant managers, owners, and others to explain legal and regulatory requirements, and to discuss operation of the plants' SPSs, SSOPs, HACCP plan, and other food safety programs. The appellant communicates and defends determinations on noncompliance issues and discusses plans for addressing repeated instances of noncompliance. He also works with a variety of individuals to resolve compliance problems and to clarify differences of interpretation concerning HACCP and other food safety or consumer protection requirements. He advises other agency inspectors, supervisors, and officers on inspection and pertinent enforcement matters.

The current SPD states that the primary purpose of the appellant's position is to verify that food safety systems are operating within assigned processing facilities in compliance with agency regulations to ensure safe food production. The appellant's supervisor is not usually present at his assigned processing plant work site.

On April 25, 2012, the appellant's supervisor certified to the accuracy of the appellant's SPD number [##-###] (Amendment #[#], signed June 17, 2011, and issued April 8, 2012). We conducted a telephone audit with the appellant on December 15, 2011, and a telephone interview with his first-level supervisor on December 16, 2011, plus several follow up calls relating to the assignment of the appellant to the new SPD and the impact which the new PHIS system has on food processing inspection operations. In deciding this appeal, we fully considered the telephone audit/interview findings and all information of record furnished by the appellant and his agency, including his current assignment and SPD, which we incorporate by reference into this decision.

Series, title, and standard determination

The agency has placed the appellant's position in the Consumer Safety Inspection Series, GS-1862, and titled it CSI (In-Plant HACCP). The appellant has not directly challenged placement of his position in the GS-1862 series, but given his attempt to compare his work to that performed by positions in the other series previously discussed in this decision, we must address this issue further.

The appellant's work involves monitoring industry quality control activities where the products involved are subject to Federal laws and regulations. To identify the proper series for this work, we carefully studied the PCSs to establish distinctions between quality assurance programs which focus on systems that build "quality" into the final product, and inspection programs which focus on whether specific standards are met. Currently, positions involved in legal and regulatory compliance work are included in specialized series in the Investigation Group,

GS-1800, or in specialized series in other occupational groups based on the particular knowledge and skills required. In some cases the work of these series also involves monitoring industry quality control programs in addition to inspecting for legal and regulatory compliance.

- Consumer Safety Series, GS-696. The CSO is a professional position established within FSIS in 2001 to serve as a representative of a district office within the agency. Employees chosen to be CSOs must meet specific education and specialized experience requirements in such scientific fields as chemistry, biology, pharmacology, and food technology. They also must undergo a uniquely designed training program which includes topics such as food microbiology, statistics, and analyzing scientific and investigative information, and which addresses specific areas of FSIS' Pathogen Reduction and HACCP regulations. They conduct on-site consumer protection assessments to verify the design and proper functioning of a plant's food safety and process control systems. They perform investigative work related to food processing to obtain information, gather evidence, or verify facts in support of administrative or civil enforcement matters. They make recommendations regarding the type of enforcement action that is necessary and assist in the preparation of enforcement related documentation. The appellant's position is excluded from this series because it does not require professional qualifications in the relevant scientific fields.

- Food Inspection Series, GS-1863. Food Inspectors (for both Slaughter and Processed Products) are responsible for inspecting all products arriving in the processing plants for wholesomeness and to assure that the meat and poultry are from inspected plants. These positions are engaged primarily in inspecting meat, poultry, fish, and related products in order to determine compliance with standards of wholesomeness and purity. This series does not cover the appellant's work because positions in this series, generally viewed as the basic frontline inspection positions, do not include the system compliance inspection work performed by the appellant.

- Agricultural Commodity Grading Series, GS-1980. Positions in this series administer, supervise, or perform work concerned with examining and evaluating agricultural products to determine their official U.S. grade and/or their acceptability in terms of quality or condition in accordance with official standards and related regulations. The primarily purpose of this series involves substantial responsibility for product grading, which is materially different from the appellant's work.

- Quality Assurance Series, GS-1910. Positions in this series are involved in the development of quality assurance plans and programs for achieving and maintaining product quality throughout the item's life cycle; monitoring operations to prevent the production of defects and to verify adherence to quality plans and requirements; and the analysis and investigation of adverse quality trends or conditions and initiation of corrective action. Unlike the appellant's position, inspection is but one of the techniques used by quality assurance specialists to achieve these goals.

After a careful review of the record, and our thorough analysis above, we concur with the series and basic title determinations made by the agency. The GS-1862 series includes technical positions concerned with planning and conducting inspections, investigations, and related

sampling and data collection activities in support of the laws and regulations protecting consumers from foods, drugs, therapeutic devices, cosmetics, fabrics, toys, and household products that are impure, unsanitary, unwholesome, ineffective, improperly labeled, or dangerous. These positions require a practical knowledge of the agency's regulations and programs; a practical knowledge of chemical and biological processes and analytical methods; the characteristics of regulated products; pertinent manufacturing, storage, and distribution methods; and techniques of inspection, sampling, and field testing, rather than professional scientific training. The GS-1862 Flysheet does not address any authorized specializations. The agency may supplement the official title with a parenthetical title as provided for in the Introduction to the Position Classification Standards, Section II., H. c.

There are no published grading criteria for positions classified in the GS-1862 series. Therefore, it is necessary to cross reference grading criteria in published standards covering series that have similar kinds of work processes, functions, or subject matter, knowledge and skills, and entail a similar level of difficulty and responsibility. To evaluate the appellant's quality assurance duties, we have cross referenced the grading criteria in the PCS for the Quality Assurance Series, GS-1910. In doing so, we have exercised great care in its application since it is a two-grade interval standard covering analytical work while the appellant's inspection work is one-grade interval technical work. To evaluate the regulatory inspection duties, we have applied the grading criteria in the PCS for the Agricultural Commodity Grading Series, GS-1980, which provides appropriate criteria for evaluating the appellant's technical duties.

Grade determination

Both the 1910 and 1980 PCSs are written in the factor evaluation system (FES) format. Positions graded under the FES format are compared to nine factors. Levels are assigned for each factor, and the points associated with the assigned levels are totaled and converted to a grade level by application of the grade-conversion table provided in the PCS. Under FES, factor-level descriptions mark the lower end; i.e., the floor, of the ranges for the indicated factor level. If a position fails in any significant aspect to meet a particular factor level, the next lower level and its lower point value must be assigned. Conversely, the position may exceed those criteria in some respects and still not be credited at a higher level because it fails to meet all significant aspects at that particular level.

The agency assigned Levels 1-6, 2-3, 3-3, 4-3, 5-3, 6-2, 7-3, 8-2, and 9-2. The appellant disagrees with the agency's crediting of Factors 1 and 4. After a thorough review of the record, we concur with the agency's evaluation of the uncontested factors. Accordingly, our appeal analysis focuses on the evaluation of Factors 1 and 4.

The appellant believes his duties and responsibilities warrant upgrading to the GS-11 level due to an increase in complexity of the processes within the food processing establishments, significant changes in the agency's inspection regulations and procedures involved in implementing PHIS, and what he states is "new information" on the Agricultural Commodity Grading Series, GS-1980, which FSIS has used for several years to determine grade classification for CSIs. The appellant states that prior to the changes in the agency's regulatory approach implemented in stages over the last decade, the regular CSIs were classified as GS-11s based on their duties covering all nine HACCP factors described previously. However, that classification

determination was made by the agency using their internal classification guide, which we may not use for classification purposes as discussed previously in this decision.

Evaluation using the GS-1910 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, such as the steps, procedures, practices, rules, policies, theories, principles, and concepts involved, and the nature and extent of the skills needed to apply this knowledge. To be used as a basis for selecting a level under this factor, knowledge must be required and applied.

At Level 1-6, the work requires knowledge of established techniques, regulations, and quality assurance requirements relating to a functional program, and skill in applying this knowledge to plan and perform a variety of assignments of moderate scope and complexity for which there are precedents. In addition, the work requires demonstrated skill in interpreting, explaining, and applying technical requirements and specifications to quality problems encountered in such activities as procedures evaluation, process audits, product inspections, or investigations of defective materials. This level also requires practical knowledge of conventional fact finding or investigative techniques; skill to develop, analyze, and evaluate facts and prepare reports of findings; and demonstrated skill in maintaining effective working relationships in the activity served.

At Level 1-7, the work requires comprehensive and thorough knowledge of the full range of principles, concepts, and methodology related to one or more quality assurance functional programs, and considerable skill in applying this knowledge to the planning and accomplishment of a variety of difficult and complex work assignments. This level also requires broad knowledge of a range of complex products including pertinent quality characteristics, manufacturing methods and techniques, special processes, interrelationship of functional parts and subassemblies, measurement and test techniques, and skill in developing plans and approaches to ensure effective product quality control; broad knowledge of the practices, policies and procedures of related functional and administrative activities; and thorough and detailed knowledge and skill in applying various methods and techniques for investigating, analyzing, and effecting corrective action on complex quality problems.

Illustrative of Level 1-7 work in a field environment is a specialist at a contractor's facility who applies the following knowledge and skills to the administration of quality assurance provisions of contracts for complex mechanical, electrical, or electronic equipment or systems: (1) extensive knowledge of acquisition quality assurance concepts, principles, methods, and practices and skill to design, plan, and implement an effective and economical quality assurance program; (2) comprehensive knowledge of the assigned commodity including product characteristics; production methods; special processes; interrelationship of parts, components, and subassemblies; inspection and test techniques; and preservation, packaging, and packing methods to determine conformance of product to technical requirements of the contract and related specifications; (3) extensive knowledge of a wide range of methods, principles, and practices to evaluate the contractor's conformance to contractual quality requirements and to

assure that procedures adequately control the quality of the product; (4) knowledge of a wide range of methods, principles, and practices directly related to the quality control/quality assurance fields including such areas as statistical analysis, control and sampling, and quality data analysis and evaluation to determine contractor compliance with the many associated aspects of quality control; and (5) broad knowledge of policies and procedures of other functional and administrative areas such as contract administration, production, or property administration to provide support services for these organizations.

The record shows several of the manufacturing processes inspected by the appellant reflect the complexity of processes found at Level 1-7. However, Level 1-7 is not fully met, as that level requires application of the full range of principles, concepts, and methodology related to quality assurance programs. The appellant's work does not require the same level of specialized knowledge. The appellant's work does not encompass the kind and extent of quality program management encompassing organization, initial quality planning, work instructions, quality cost data, etc., which is involved in the full range of quality assurance principles and methodology applied to the production of a complete complex product. Instead, his work focuses on the production processes required to ensure consumer safety rather than all quality characteristics of the food product; e.g., the smell, taste, touch (mouth feel), and visual attractiveness. His work is more like that described in Illustration #2 for Level 1-6 where the specialist is a member of the resident Government quality assurance staff at a contractor's facility and applies knowledge of established plans and methods for ensuring compliance with contract quality requirements for the production of electronic equipment. He uses skill in applying this knowledge to plan and accomplish a variety of assignments such as reviewing contractor operations and processes for compliance with quality procedures and performing product inspection. Therefore, Level 1-6 must be assigned and credited with 950 points.

Factor 4, Complexity

This factor covers the nature, number, variety, and intricacy of the tasks, steps, processes, or methods involved in assuring the acceptability of the products involved; the difficulty in identifying what needs to be done to complete assignments (i.e., the facts or conditions that must be considered); and the difficulty and originality required in performing the overall work of the position.

At Level 4-3, the work involves the application of a variety of quality assurance techniques and procedures or work directions to the planning and completion of assignments. The specialist uses established methodology and accepted practices to perform a variety of tasks, including the selection and application of different methods and procedures, depending on the phase of the project and the nature of the problems encountered. The specialist develops essential facts through data analysis, product inspection, procedures review, and audit or surveillance of operations on quality trends and factors contributing to unsatisfactory trends or conditions. In investigating quality problems, the specialist considers a number of factors to isolate the root cause(s). For example, a particular defect may be traceable to defective raw material, errors in work instructions or quality procedures, deficient in-process treatment, faulty handling or storage procedures, or quality of workmanship. Documentation developed concerning defective

products or other situations adverse to quality form the basis for initiating requests for corrective action.

At Level 4-4, the work involves the application of a complete range of quality assurance principles, techniques, and methodology to plan and accomplish projects for products having complex characteristics, or assignments of equivalent complexity. The complexity of the products requires that the quality characteristics be progressively verified through precise measurements and tests, and controls or preventive efforts are required throughout the complete production cycle. Decisions concerning what needs to be done involve review and analysis of project or program documents to ensure that critical quality requirements are identified and provided for in terms of appropriate specifications, procedures, or methods of quality verification; tailoring the approach to requirements; making major modifications in approach or emphasis as conditions warrant; and coordinating resolution of nonconformance. The work requires making many decisions concerning such things as determining adequacy and completeness of technical data, evaluating capabilities of contractor activities for producing acceptable products, evaluating the adequacy of a contractor's quality control system, judging the adequacy of documentation of quality problems, and making authoritative interpretations of complex quality requirements.

The appellant believes Level 4-4 is appropriate because of the complexity of the numerous food production processes he oversees. For example, he spends most of his time at the [name] Food plant, which processes, packages, and thermally sterilizes in-container a wide range of low-acid and acidified products. This facility is a USDA-inspected, 160,000-square-foot plant employing about 400 people. [Name] does not can foods. It produces more difficult, specialty products in niche packaging. Products include entrees and sauces for several major food companies.

Commercial sterility, the destruction of Clostridium botulinum (*C. botulinum*) spores, is an absolute requirement for producing low-acid in-container shelf-stable food products. In the food industry, pressure cookers, often referred to as retorts (meaning "canning retorts"), are used in the thermal process for achieving commercial sterility, which is based on the accumulated time/temperature relationship needed to achieve lethality of *C. botulinum*. A retort pouch is a type of food packaging created by aseptic processing, made from multiple layers of flexible laminate, allowing for the sterile packaging of a wide variety of food and drink. It is constructed from a flexible metal-plastic laminate which is able to withstand thermal processing used for sterilization. The food is first prepared, even raw or semi-cooked, and then sealed into the retort pouch. The pouch is then heated to 240-250°F (116-121°C) for several minutes under high pressure, inside retort or autoclave machines. The food inside is cooked, similar to pressure cooking. This process reliably kills all commonly occurring microorganisms (particularly *C. botulinum*), preventing it from spoiling. The packaging process is very similar to canning, except that the package itself is flexible.

At the [name] plant, thermal processing involves the operation of 27 retorts of four types, including four stem air retorts, eight cascading shower retorts, three cascading retorts, and twelve full immersion rotary retorts. The plant may run five different product lines at a time with different packaging materials, which adds to the complexity. The facility also produces product using a High Pressure Pasteurization (HPP) process, and two new technologies (Thermal HPP

and Microwave Sterilization) have been approved but have not yet been installed, as neither has been categorized in the HACCP framework. Because of the many variables involved, the [name] Foods plant optimizes product quality by using computers to control its entire process from ingredient batching, blending, and cooking through packaging, sterilization, secondary packaging, and distribution. All retorts are controlled by commercial predictive modeling software running on controllers integrated with a host PC which records process profiles for each batch.

Level 4-3 is met. The appellant reviews records, observes plant operations, and conducts hands-on verification to ensure compliance with regulatory requirements. He prepares detailed NRs to document noncompliance with regulatory requirements and determines when regulatory control action is necessary. He assesses whether the plant's corrective or preventative actions are acceptable and effective, if there are trends in noncompliance, or if enforcement action is warranted. The appellant conducts regulatory oversight activities inside plants in matters relating to other consumer protections (e.g., economic adulteration and misbranding). He has primary contact with plant managers, owners, and others to explain legal and regulatory requirements, discuss operation of the plant's SSOPs, HACCP plan, and other food safety programs, communicate on and defend determinations on noncompliance issues, and discuss plans for addressing noncompliance.

The appellant's work situation is very similar to Illustration #2 for Level 4-3 where, within the context of the overall plan for providing in-plant acquisition quality assurance, the specialist performs continuing evaluation of the contractor's compliance with procedures to control product quality. He or she initiates recommendations for corrective action by the contractor when deficiencies or unsatisfactory conditions are encountered; performs product inspections as required to verify that items offered by the contractor conform to requirements; provides quality experience data for use in adjusting level of inspection effort or for switching to control through procedures evaluation; and investigates and reports on material deficiencies and coordinates disposition of nonconforming material.

Although the appellant's work in some respects exceeds Level 4-3, Level 4-4 is not fully met. The nature of the typical products involved at this level requires application of a complete range of quality assurance principles, techniques, and procedures. While the appellant's work involves some complex products and decisions similar to those described at Level 4-4, the work typically involves a limited need or opportunity to make major modifications in approach or to determine the adequacy of technical data. At Level 4-4, assignments typically involve greater responsibility for developing and implementing quality assurance plans and procedures, whereas Level 4-3 positions operate largely within plans and procedures established for specific program areas; i.e., the plant's SSOPs and HACCP plans. Level 4-4 is not fully met, so Level 4-3 must be assigned and credited for 150 points.

Summary of FES factors

Factor	*Level*	*Points*
1. Knowledge required by the position	1-6	950
2. Supervisory controls	2-3	275
3. Guidelines	3-3	275
4. Complexity	4-3	150
5. Scope and Effect	5-3	150
6. Personal contacts	6-2	25
7. Purpose of contacts	7-3	120
8. Physical demands	8-2	20
9. Work Environment	9-2	20
Total Points		1985

The total of 1985 points falls within the GS-9 point range (1855-2100) on the grade-conversion table in the GS-1910 PCS.

Evaluation using the GS-1980 PCS

Factor1, Knowledge required by the position

At Level 1-6, graders exercise extensive overall knowledge enabling them to perform assignments involving a wide range of duties and requiring the ability to resolve a wide range of problems dealing with food safety issues in an operational meat-processing context. Knowledge and skill are developed to the extent the grader independently conducts the product processing inspection function involving a full range of the primary products and performs difficult assignments, such as dealing with unusual products or product types and making difficult, often borderline, authoritative determinations involving processing operations concerned with a variety of products or product types. Beside product knowledge, graders must be fully cognizant of official regulatory requirements, including processing and sanitation norms pertaining to processing facilities, and be adept in their application.

At Level 1-7, graders apply advanced technical knowledge of the relevant characteristics of products; inspection-related principles, techniques, regulations, and standards; production, transportation, storage and processing operations; and extensive skill in uniformly and accurately applying inspection regulations to make difficult, controversial, and borderline determinations and to identify unusual product defects and diseases. They regularly serve as technical experts; e.g., making appeal determinations, resolving controversies, or providing broad technical guidance on difficult and controversial inspection-related problems. They typically have had considerable inspection-related experience and advanced training in inspecting and grading involving major types of products as well as those that are unusual or less well known.

The appellant asserts his duties require knowledge similar to that described at Level 1-7. He states the ongoing changes have placed new and more technical knowledge demands on him, from organoleptic inspection under the old command and control system in force from the

1980's, through the transition to the implementation of HACCP and other process control programs implemented from 1997 to 2000, to the recent roll-out of the PHIS data-analytics system where an analytical review using the HAV process of an establishment's production process is used to ensure regulatory obligations to conduct a food safety hazard analysis. The appellant uses an example of how he must review an establishment's HACCP plans to support his assertion that the enhanced knowledge demands stemming from these changes require him to exercise de facto professional-level job knowledge akin to that expected of a EIAO/CSO, GS-696. However, the record shows this function is the responsibility of the EIAO, who applies professional scientific knowledge in assessing the caliber of HACCP plan design to ensure plans are methodologically sound. The appellant, as the CSI, focuses instead on the effectiveness of the processing facility's execution of those same plans once in place, primarily through application of FSIS' established sampling and statistical methods in implementing and following the new PHIS process to assess compliance with the agency's SPSs and adherence to the SSOPs**.** His supervisor states a practical knowledge of plant operations does not make a CSI a technical expert. The establishment's work control system and the HACCP plan are established by the plant. The appellant does not have the authority to challenge them, as he can only refer his concerns up the line.

While the illustration for Level 1-7 describes a "grader-in-charge" which sounds much like the appellant's role as IIC, the difference is that the appellant's position does not possess the authority intended here. Agricultural commodity graders at this level typically have had considerable experience and advanced training in grading and/or inspecting major types of products and rare or unusual products in the relevant commodity group. They regularly serve as technical experts performing final grading on reviews, making appeal determinations, resolving controversies, or providing broad technical guidance on difficult and controversial grading inspection problems.

The level of responsibility depicted at Level 1-7 is more representative of the EIAO/CSO position. The EIAO is responsible for visiting plants to review their food safety documents (HACCP, SSOPs, etc.). The EIAO conducts comprehensive Food Safety Assessments (FSA) at establishments in which they consider all food safety aspects that relate to that establishment and its products, the nature and source of all materials received, the establishment's processes, and the environment of the establishment. The EIAO primarily focuses on the design and validity of the hazard analysis, HACCP plan, SSOPs, SPSs, prerequisite programs, testing programs (e.g., generic *E. coli* written procedures), and any other programs that constitute the establishment's food safety system. The EIAO assists the CSI, as needed, in the consistent nationwide implementation of significant new inspection procedures designed to verify that official establishments meet regulatory requirements for food safety and other consumer protection.

CSIs are to document the noncompliance, as discussed above. If the current written SSOP plan is not in compliance, they are to contact the District Office (DO) for direction. Under PHIS, CSIs must verify at the end of January each year that an establishment's SSOP and HACCP plans comply with regulatory requirements similar to the basic compliance checks previously performed for both SSOPs (01A01) and HACCP (03A01). Under PHIS, the role of the CSI has not changed, except the CSI will now be responsible for performing routine HAVs either on a regular basis or as prompted by specific events to ensure that an establishment is meeting its

obligation to conduct a food safety hazard analysis. However, due to the short lead time involved in implementing PHIS, CSIs did not perform an HAV procedure this year for the January 2012 verification. The agency is aware of a few official establishments that have conducted a hazard analysis determining and supporting that there are no food safety hazards reasonably likely to occur (RLTO) in their specific production process and processing environment. Although responsibility for conducting HAVs has been assigned to CSIs like the appellant, CSIs are not to perform the HAV procedure until instructed later this year after they have received verification training. If CSIs have questions in an establishment operating with only a hazard analysis, they are to discuss their concerns with their supervisor. The supervisor will then go through the chain-of-command to contact the DO, which will determine if a withholding action or suspension is justified.

Further, an HAV is not a Food Safety Assessment (FSA). An HAV is a screening procedure to identify obvious cases of noncompliance and other issues of concern that require further consideration or investigation by an EIAO. In contrast, an FSA is a comprehensive assessment of the entire food safety system over time to determine if the food safety system is adequate in both design and execution. It is an audit done by FSIS at federally inspected plants to assure that food safety procedures are effective. An FSA is done randomly or in response to a problem. EIAOs have specific directives and procedures for conducting FSAs. They write comprehensive, detailed reports. They are expected to make definitive judgments about the adequacy of establishment decisions and supporting documents. According to FSIS, a central goal of the FSA process is to "reduce recalls and enforcement actions by providing valuable information to plants about their food safety systems." An FSA is performed by an EIAO to determine noncompliance with the SPS regulations, ensure the SSOPs are designed to include all procedures necessary to prevent direct contamination or adulteration of product, and that they signed and dated.

The knowledge requirements of the appellant's position fully meet Level 1-6 criteria. Level 1-6 is the full performance level applying the full range of grading and inspection knowledge and skill typical of the commodity group specialization, as described here. At this level, the grader is able to make, explain, or defend nearly all grade or inspection determinations, only rarely requiring technical assistance in borderline cases.

At first glance, the appellant's duties seem to exceed those typical of Level 1-6 in several respects. This recognizes the major changes in work performed by the appellant as the agency inspection process advanced from the traditional organoleptic inspection techniques to the HACCP system process to the newly established PHIS process in parallel with the evolution of sophisticated products and processes in the food processing plants. The CSI follows the regulatory process for HACCP and is responsible for understanding and properly performing the agency's HACCP tasks in the PHIS. CSIs focus on the overall effectiveness of the establishment's HACCP system. By verifying that an establishment is implementing an effective HACCP system, FSIS can best ensure that the establishment is producing wholesome, unadulterated products. The regulatory process for HACCP includes four components: inspection methods (HACCP methodology tasks, HAVs, and HACCP verification tasks), regulatory decision-making (compliance/noncompliance determinations), noncompliance documentation, and enforcement actions. While this work requires an extensive overall

knowledge in a highly demanding work environment involving a very broad range of processing operations and products, the appellant is not a technical expert. That role is reserved for higher level positions in the organization, including the EIAO. The appellant is expected to the extent possible to resolve identified compliance problems through ongoing discussions with plant officials and other relatively less formal approaches. However, this does not extend to having the authority to render formal appeal determinations when plant management has not resolved compliance issues raised through the NR process and informal discussions and more formal measures must be taken, such as the formal NOIE issuance and noncompliance sanctioning methodology. These functions, and the concomitant knowledge and skill found at Level 1-7, are vested in other positions in the organization.

It is the responsibility of the plant to identify potential hazards, develop a HACCP plan containing controls to prevent, eliminate, or reduce hazards to an acceptable level, monitor the performance of controls, and maintain required records. As at Level 1-6, the primary responsibility of in-plant inspectors like the appellant is to evaluate the implementation and maintenance of a HACCP plan's process controls. It is not the responsibility of in-plant inspectors like the appellant to determine whether the form and content of a HACCP plan is adequate, as they do not have the authority to make determinations on the adequacy or number of CCP's in a HACCP plan. Instead, it is the responsibility of the Policy Development Division (PDD) (formerly the Technical Service Center) to answer questions and resolve issues regarding the adequacy of the form and content of the HACCP plans. Accordingly, in-plant inspectors are expected to contact PDD as soon as possible when such questions arise. PDD provides leadership in the identification of policy needs, and the subsequent development of policy solutions to address the intent and application of verification and enforcement policies to in-plant activities.

Thus, Level 1-7 is not met because the appellant's position is not assigned the duties required at this higher level. More importantly, he does not need the advanced technical knowledge of processing operations nor the extensive technical skill described to apply inspection regulations uniformly and accurately, to make difficult, controversial, and borderline determinations, and to recognize and identify the equivalent of extremely rare commodity defects and diseases found at Level 1-7. Therefore, Level 1-6 must be assigned and credited with 950 points.

Factor 4, Complexity

The appellant believes his duties require an advanced technical knowledge similar to that described at Level 4-4 due to the complexity of the [name] plant operations, his responsibility for several other plants, and the scope and breadth of operations which require the development and implementation of many separate HACCP plans by the establishments.

At Level 4-3, work assignments involve a variety of duties requiring the application of different methods and procedures depending on the phase of assignments being performed. The pertinent factors graders must take into account are technically complex and also vary with work phases and individual situations encountered. The level of complexity of the duties of most plant graders working in processing facilities will typically be found at this level. Responsibilities performed in a processing plant at this level characteristically involve at least average technical

complexity and regularly encompass a variety of processed products; e.g., a meat-processing plant which processes beef, mutton, and veal. Inspection-related duties normally involve assessments of general sanitation conditions, processing methods, and conditions of product storage. Some positions at this level involve less demanding inspection-related work but which include full, on-site responsibility for maintaining relationships with plant officials and performing administrative duties (e.g., maintaining records, scheduling work, etc.).

Under PHIS, HACCP processes will no longer serve as the main focus of the appellant's duties. Instead, the focus will be the certification of newly proposed inspection procedures and examining an establishment's hazard analysis through the execution of HAVs. The plant is also responsible for the SSOPs, which are developed by the plant in a two-tiered process, initially internally and then with independent outside review. Now, under PHIS, the appellant must be able to evaluate the plant's daily execution of the HACCP plans. Agency policy is to encourage establishments to do testing and to address any problems that exist. Establishments do not have to change their HACCP plans or hazard analyses to correlate with the selections in PHIS. CSIs like the appellant are to enter the establishment information into PHIS as best they can. However, the results of any testing performed by the establishment that may have an impact on the establishment's hazard analysis, whether or not such testing is incorporated into an actual HACCP plan, are subject to FSIS review and are to be available to FSIS personnel. The CSI ensures that the plant is doing what and how the HACCP plan(s) state(s), and if they properly document how that is done as they say they are going to do.

Under PHIS, CSIs like the appellant must consider several factors in deciding whether to link NRs to prior events. When any of these factors apply to the situation, CSIs need to consider NRs linkage with regard to time as an important factor associated with the establishment's operational schedule. For example, an establishment that operates twice a week versus one that operates two shifts seven days a week will have different time considerations for linking NRs. In seeking to gauge the adequacy of the facility's measures to implement its established HACCP plans and SSOPs, the appellant employs his extensive overall knowledge of regulatory requirements to assess information obtained through direct observation of facility operations, records, and ongoing discussions with plant personnel and management staff to arrive at decisions as to whether problems of noncompliance are identified. If so, he must determine which is/are the most appropriate corrective action(s) to be levied. Such analyses and decisions are of necessity complex and seasoned judgments must be made by taking into account a variety of factors, including the accuracy and credibility of information obtained from records and observations, the interrelationships of data and their relative significance, the pertinence of various regulations and other official guidelines to the instant scenario, and the need on occasion to interpret such guidelines to ensure application of their spirit and intent to the actual situation at hand.

Level 4-3 is met. The appellant's work involves the full scope of responsibilities associated with assessing the caliber of the implementation of established HACCP plans and compliance with SSOPs at the processing facilities to which he is assigned. The workload resulting from this operating environment is quite heavy and presents a challenge, but the work itself as previously discussed is best characterized as posing issues of primarily moderate difficulty which can normally be resolved through the use of straightforward analyses and the application of appropriate regulatory and procedural guidelines and standard techniques, to include attention to

recordkeeping and maintenance of associated documentation. PHIS results in a changed approach, but the technical demands of the work remain largely the same. The number of plants and/or processes overseen does not affect the basic nature and type of analyses required of the position.

At Level 4-4, work involves varied duties requiring many different and unrelated processes and methods such as developing modified sanitation inspection procedures for a new processing plant or performing staff work to plan grading operations in a new area. However, the appellant does not develop SSOPs nor perform staff work as described at this level. At Level 4-4, decisions regarding what needs to be done involve the analysis of problems which are not generally defined in inspecting and grading a commodity. This generally involves resolution of grading or inspection procedural problems when data is conflicting or incomplete. However, this technical analysis is performed by the EIAOs. Therefore, Level 4-4 is not met. While the appellant may review an HACCP plan for verification, he is not involved in establishing, adapting, or modifying inspection regulations or procedures, as this work is done at higher echelons within the agency. Accordingly, Level 4-3 must be assigned and credited with 150 points.

Summary of FES factors

Factor	*Level*	*Points*
1. Knowledge required by the position	1-6	950
2. Supervisory controls	2-3	275
3. Guidelines	3-3	275
4. Complexity	4-3	150
5. Scope and Effect	5-3	150
6. Personal contacts	6-2	25
7. Purpose of contacts	7-3	120
8. Physical demands	8-2	20
9. Work Environment	9-2	20
Total Points		1985

The total of 1985 points falls within the GS-9 point range (1855-2100) on the grade-conversion table in the GS-1980 PCS.

Decision

The position is properly classified as Consumer Safety Inspector (parenthetical at agency discretion), GS-1862-9.