

**U.S. Office of Personnel Management
Classification Appeal Decision
Under sections 5103 and 5112 of title 5, United States Code**

Appellants: [Name]

Agency classification: Supervisory Security Guard
(Patrol Boat Operator), GS-085-7

Organization: [Organization]
[Organization]
[Organization]
[Organization]
Department of Army
[Location]

OPM decision: Lead Security Guard (Parenthetical
title at agency's discretion)
GS-085-5

OPM decision number: C-0085-05-01

/s/ Judith A. Davis for

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

11/27/2012

Date

As provided in section 511.612 of title 5, Code of Federal Regulations (CFR), this decision constitutes a classification certificate which 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 5 CFR 511.605, 511.613, and 511.614, as cited in the *Introduction to the Position Classification Standards (Introduction)*, appendix 4, section G (address provided in appendix 4, section H).

Since this decision lowers the grade of the appealed position, it is to be effective no later than the beginning of the sixth pay period after the date of this decision as permitted by 5 CFR 511.702. The applicable provisions of 5 CFR parts 351, 432, 536, and 752 must be followed in implementing the decision. If any of the appellants are entitled to grade retention, the two-year retention period begins on the date this decision is implemented. The servicing human resources office must submit a compliance report containing the corrected position description (PD) reflecting the actual work performed by the appellants as described in this certificate and a Standard Form 50 for each appellant showing the personnel action taken. The report must be submitted to the U.S. Office of Personnel Management (OPM) office which adjudicated the appeal within 30 days from the effective date of the personnel action.

Decision sent to:

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Introduction

On January 4, 2012, OPM's Atlanta Oversight accepted a classification appeal from [Appellants]. On May 14, 2012, it was transferred to Philadelphia Oversight for adjudication. We subsequently cancelled [Appellant] appeal because he retired on April 30, 2012, and under controlling law and regulation, no longer has standing to continue this appeal since he no longer occupied the position in question. The appellants occupy identical additional positions hereinafter referred to as position, currently classified as Supervisory Security Guard (Patrol Boat Operator), GS-085-7, located in the [Organization Name], in [Location]. The appellants believe their position should be placed in the Federal Wage System (FWS) and graded as a Supervisory Small Boat Operator (Security Guard), WL-5786-9. We received the complete agency administrative report (AAR) on January 25, 2012, and have accepted and decided this appeal under sections 5103 and 5112 of title 5, United States Code (U.S.C.).

To help decide this appeal, we conducted telephone interviews with the appellant representative on June 5, 2012, and their immediate supervisor on June 11, 2012. In reaching our classification decision, we have carefully considered all of the information obtained from the interviews, as well as all other information of record provided by the appellants and their agency.

Background information

In September 1995, OPM's Atlanta Field Service Office issued a classification appeal decision for the then-occupants of [Organization] Security Guard (Patrol Boat Operator), GS-085-5, position which downgraded the position to GS-4 grade level. In June 2004, all of [Organization] boat- and land-based security guard positions were upgraded to the GS-5 grade level based on what the agency states were the requirements added to security-type positions after the September 11, 2001, terrorist attacks. In January 2007, the harbor patrol security guard positions were upgraded to the GS-6 grade level based on what the agency states were additional maritime security and water search and rescue functions.

General issues

The appellants raise concerns about the agency's classification review process. By law, we must make our decision solely by comparing the appellants' 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 their position. Because our decision sets aside all previous agency decisions, the agency's classification review process is not germane to this decision.

The appellants do not agree that their official [PD#] dated February 28, 2012, accurately describes their boat operation duties. They state the latest revision of their PD does not include any of the suggestions they believe would add needed detail and further erodes its ship/boat/ nautical references. They further state the percentages of time and the points assigned to Factor I, Knowledge required by the position, as listed in their PD are incorrect.

A PD is the official record of the major duties and responsibilities assigned to a position or job by an official with the authority to assign work. A position is the duties and responsibilities which make up the work performed by the employee. Classification appeal regulations permit OPM to investigate or audit a position and decide an appeal based on the actual duties and responsibilities currently assigned by management and performed by the employee. An OPM appeal decision classifies a real operating position and not simply the PD. This decision is based on the work currently assigned to and performed by the appellants.

In their response to the AAR, the appellants state the principle of providing equal pay for equal work was designed to prevent FWS jobs from being hidden under the general schedule (GS) based on the work product, which for them is operating small crafts. Implicit in the appellants' rationale is that placement of their position in the GS denies them the higher level of pay they would receive if placed in the FWS. The classification appeal process provides for determining the proper pay plan, series, title, and grade of the position under appeal. Once a decision is reached regarding the proper pay plan, we may only apply published standards for that pay plan in determining the grade of the position. We may not, as the appellants appear to request, apply grading criteria from another pay system to grade a position for the purpose of ensuring what they perceive is pay equity. Therefore, we will not address the issue further in this decision.

Position information

[Organization] is a 16,000-acre Army-owned site built with a large undeveloped buffer zone and large sand berms for safety. It is the largest ammunition port in the nation and the Army's primary east coast deep-water port. It provides worldwide trans-shipment of the Department of Defense's ammunition, explosives, and other dangerous cargo. The munitions are brought in by truck or train and loaded aboard ships bound for Europe. [Organization] also supports Fort Bragg by shipping heavy equipment, bulk supplies, and ammunition for the 82nd Airborne Division and its supporting units when they are mobilized.

[Organization] provides physical security, force protection, and law enforcement support as well as safeguards critical trans-shipments of ammunition, explosives, and other dangerous cargo in support of global contingency operations. The appellants serve as harbor patrol security guards who patrol the seven mile (when including the curves or bends) stretch of restricted waters of the Cape Fear River running along [Organization] shore line. They intercept and divert vessels which stray into the restricted waters back to open waters.

The [Organization] is authorized a total of 102 positions and operates two patrol boats. The staff is headed by the Chief of Police/Provost Marshal (GS-083-11). The Chief of Guards (GS-085-10) oversees the land-based guard staff. The patrol boat component is headed by the Harbor Patrol Captain (HPC) (GS-085-8) who reports directly to the Chief of Police. The patrol boat operations staff reporting to the HPC is organized into four groups. Each group is staffed by one GS-7 Supervisory Security Guard (Patrol Boat Operator) and three GS-6 Security Guard (Patrol Boat Operators). Two groups work a set day shift of 6:00 A.M to 6:30 P.M and two groups work a set evening shift of 6:00 P.M to 6:30 A.M., including weekends and holidays. Cycles for these groups vary over the two week pay period, e.g., four days on and three days off the first week and three days on and four days off the second week. Each shift includes one GS-7 Supervisory

Security Guard (Patrol Boat Operator) who serves as the shift supervisor (the appellants) over staff on both patrol boats (three GS-6 Security Guard (Patrol Boat Operators)). Each shift includes two land-based [Organization] staff members, typically a GS-5 Security Guard and GS-6 Police Officer, so that each boat is staffed by three people.

The land shift staff includes one GS-8 Supervisory Police Officer, five GS-6 Police Officers, one GS-7 land-based Supervisory Security Guard, one GS-6 land based Security Guard who serves as the Desk Sergeant, and 11 GS-5 land-based Security Guards.

The HPC typically works 6:30 A.M. to 3:00 P.M. Monday through Friday. The Chief of Police and Chief of Guards typically work Monday through Friday, but work staggered hours. The remaining staff includes a Physical Security Specialist, Training Officer, and Security Assistant who typically work 7:30 A.M to 4:00 P.M Monday through Friday.

We find the appellants perform the following duties contained in their PD of record:

The appellants ensure the appropriate methods and procedures are used for protecting [Organization] conduct performance evaluations; recommend awards and bonuses to the HPC; provide specific task and job technique instructions; make written instructions, reference materials, and supplies available; assign projects and responsibilities based on harbor patrol priorities, difficulties of assignments, and the capabilities of the employees; recommend hiring, promotion, or reassignment actions; explain overall policies, goals, procedures, and regulations; serve as a consultant in unusual situations; train auxiliary boat operators in all aspects of vessel operations; ensure pre and post-shift patrol boat checklists are completed; and observe the general physical security conditions during the shift.

We find the appellants' PD overstates certain aspects of their work. For example, the PD states: "Responds to calls/alarms requiring pursuit and/or arrest/apprehension of offenders." The appellants serve as the shift supervisor and designate one of the patrol boats to look for and stop unauthorized vessels which trespass into [Organization] restricted waters. The appellants do not respond to calls and alarms which need to be investigated and the record shows they do not have arrest authority. The PD also states: "identifies developmental and training needs of employees; and provides and/or arranges for needed development and training." The record shows the appellants make recommendations on the developmental and training needs of the patrol boat operators to the HPC, but do not provide or arrange for such training. Rather than recommend new internal instructions and procedures, they recommend revisions to existing ones to the HPC. The appellants also do not supervise additional personnel during arms, ammunition, and explosives loading operations since a third patrol boat is rarely used.

The appellants' PD includes the following duties which they do not perform. Instead, these duties are performed by the HPC: interviews candidates for patrol boat operator positions; gives warnings and reprimands; revises work schedules based on workload and availability of personnel; prepares reports relating to budget and personnel requirements; assists with the security patrol boat related portion of the [Organization] budget; assists with the plans for and directs security operations and general day-to-day use of [Organization] wharfs, piers, and docks;

works with various departments to ensure that safety and proper operations are conducted; and carries out equal employment opportunity policies.

We find the appellants perform the following duties contained in the patrol boat operators' PD which the nonsupervisory boat operators do not perform: they determine the suitability of conducting patrols based on the weather conditions, winds, tides, etc. and pass information and directions on to police and other security personnel involving emergency responses with the desk sergeant on land.

We also find the appellants perform the following duties not contained in their PD:

The patrol boat operators and the appellants conduct water-based security patrols of U.S. military, non-military, and foreign flagged ships at berth which may contain explosives and associated equipment used for the loading and unloading of vessels at berth, three wharfs and other waterfront facilities. They also conduct routine patrols to ensure [Organization] restricted waters are secure at all times, stop potential intruders from entering the restricted area, and ensure the buoys, barriers, pylons, lights, and signs in place clearly mark the restricted waters and warn unauthorized vessels to stay away from the area.

The appellant who is the shift supervisor coming off-duty will brief the HPC on what occurred during the shift. The appellant serving as the on-coming shift supervisor will receive a briefing from the HPC on what occurred during the previous shift as well as any additional information of which he needs to be aware. The shift supervisor then provides a briefing to the other patrol boat occupants at the start of the shift which includes providing them their boat assignments, and determining which boat will patrol a 1,000 meter security zone around the vessels at berth (as needed), providing a synopsis of what occurred during the previous shift and if any further action needs to be taken on the current shift, informing them if any training is scheduled, and if any new vessels will arrive.

Typically two boats patrol the restricted waters of the Cape Fear River off [Organization] coast during each work shift. One boat includes a GS-7 Supervisory Security Guard (Patrol Boat Operator) who serves as the shift supervisor (the appellants), one GS-4 Security Guard (Patrol Boat Operator), and one GS-5 land based Security Guard who is learning all aspects of vessel operations from the shift supervisor and operates the boat under his boat operator's license. The second boat includes two GS-4 Security Guard (Patrol Boat Operators) one of whom functions as the senior boat operator, and one GS-6 Police Officer. Every two hours the crew members rotate between the three boat functions of boat operator who is also in charge of boat operations, contact officer who initiates the traffic stops of other vessels, and the cover officer who provides protection to the contact officer, holds an M-16 rifle during traffic stops and watches the members of the stopped vessel. The only exception is the GS-6 Police Officer does not serve as a boat operator.

They also escort unauthorized vessels back to unrestricted waters once it is determined the occupants of the stopped vessel pose no criminal threat; maintain radio contact with the U. S. Coast Guard, civilian vessels and [Organization] provide assistance in search and rescue operations when possible; maintain boat logs of daily operations which show the hours, miles

run, and supplies used; participate in conducting drills and training; perform first echelon maintenance on boats to include replacing fuses, cleaning battery terminals, and clean sea strainers; and conduct the preliminary portion of maritime traffic accidents, incidents, etc, by taking witness statements and photographs of the scene.

As a result, the PD fails to meet the standards of PD accuracy for classification purposes as discussed in section III.E. of the *Introduction* and must be corrected as part of the compliance report directed on page ii of this decision.

Pay category determination

The agency classified the appellants' position to the 085 Security Guard occupational series, titling it Supervisory Security Guard (Patrol Boat Operator), but the appellants believe their position should be placed in the 5786 Small Craft Operating series and graded WL- 9 level. They state the paramount function of their position is the operation of patrol boats to properly secure a Federally restricted waterfront and without them they cannot fulfill their mission. They further state their position exists to secure the restricted waters, wharfs, and vessels moored at [Organization] which is their primary duty. For reasons discussed below, we find the appellants' position is not covered by the FWS.

Jobs in the 5786 series perform work involving the operation of small oar, sail or mechanically propelled craft, generally under 55 meters (180 feet) in length, to transport personnel and supplies, control harbor pollution, remove aquatic plants, conduct hydrographic surveys of rivers and harbors, or carry out similar functions. The operations are characterized by regular daily tours of duty followed by employees' physical departure from the boat rather than watch and watch, which is characteristic of maritime industry practices. This work requires the ability to steer and navigate the small craft, operate the engines and, in some assignments, to make operating repairs to the engines and the boat itself. However, in order to be covered under the FWS, the paramount requirement to perform the primary duties of the job must be trades, crafts, or laboring experience. The term "paramount requirement" refers to the essential, prerequisite knowledge, skills, and abilities to perform the primary duty or responsibility for which the job has been established. If a position does not meet the preceding FWS coverage requirements, it is subject to the GS even if it requires physical work, if its primary duty requires knowledge or experience of an administrative, clerical, scientific, artistic, or technical nature not related to trade, craft, or manual labor work.

The appellants' primary and paramount duties flow from the mission and function of the organization in which they work. The record shows that trades or crafts knowledge and skill are not required to perform the primary duties of the appellants' position. The appellants' classification appeal request states: "The position exists for a security mission; therefore the prerequisite skills of a small craft operator are what make the mission possible. The duties of a small craft operator require a highly specialized skill set with a long apprenticeship program." However, this misconstrues the meaning of the terms "primary" and "paramount." As previously discussed, the appellants conduct water-based security patrols of the ships at berth and routine patrols to ensure the safety of [Organization] restricted waters. This is confirmed by

their first- and second-level supervisors who state the appellants' primary duty is to maintain the security of the restricted waters of the Cape Fear River.

Their immediate supervisor stated that in order to perform their duties, the appellants must possess many knowledges to include maritime rules and regulations, protective measures such as establishing security zones and interdiction procedures, and the skills involved in operating watercraft, and in the proper handling, care, use and storage of fire arms. A review of the merit promotion announcement (MPA) used to fill the appellants' position shows an applicant must be able to **maintain** a U.S. Coast Guard License to operate the patrol boats used at [Organization] once they enter the position, which is a condition of employment. Supervisory MPAs target internal applicants who possess the knowledge and skills necessary to oversee, as well as to perform, the same work performed by the non-supervisory employees in the unit to be supervised. Candidates selected for the base-level Security Guard (Patrol Boat Operators) positions need to only be able to obtain a license to operate a patrol boat once they enter the position, we find the appellants are not required to possess the license prior to entering their position. In order for the appealed position to be covered under the FWS, the prerequisite knowledge, skills, and abilities must be trades, crafts, or laboring experience. Since possessing a small craft operator license is not required before entering the subordinate positions, it cannot be construed as the paramount requirement of this position. Instead, operation of small craft is a tool used to conduct the primary and paramount security function of the appellants' position and is a skill that may be learned after placement in the position. We find the appellants do not apply knowledge and skills of trades and crafts to perform their primary duties. Consequently, the position is not covered by the FWS and is appropriately placed in the GS.

Series, title and standard determination

The appellants' primary duties require technical knowledge of Federal, State, and local laws, rules, regulations, and codes to include maritime law and security standard operating procedures. In performing their duties, the appellants provide [Organization] waterfront security through the prevention of unauthorized access. These duties are covered by the Security Guard Series, GS-085, which includes positions involved in supervising or performing protective services work in guarding Federally owned or leased buildings or property; protecting Government equipment and material; and controlling access to Federal installations by employees, visitors, residents, and patients. Like the appellants' position, GS-085 security guards prevent, respond to, and/or resist attempted violations, apprehend and detain offenders, and turn over cases and violators to police or other law enforcement officers. Like GS-085 positions, the appellants conduct water-based security patrols of vessels on berth; conduct routine patrols of waterfront facilities; observe the wharves and the special equipment used for loading and unloading explosives; patrol the restricted waters of the Cape Fear River to ensure they are secure; stop potential intruders from entering the restricted area; ensure the buoys, barriers, pylons, lights, and signs clearly mark the restricted waters; and escort unauthorized vessels back to unrestricted waters.

GS-085 positions are classified by application of the Grade Evaluation Guide for Police and Security Guard positions in Series, GS-083 and GS-085 (Guide). The demands of small craft operation and such issues as the specialized skills and a long apprenticeship program needed to operate small craft are not germane to our evaluation of the appellants' job and will not be

addressed further as they are ancillary to the appellants' primary and paramount GS-085 work as discussed previously in this decision.

The appellants' position includes "Supervisory" in the title and the General Schedule Supervisory Guide (GSSG) was used by the agency to evaluate the position's grade level. In order to use the GSSG for grading purposes, a position must meet all three of the following requirements: (1) requires accomplishment of work through combined technical and administrative direction of others; (2) constitutes a major duty occupying at least 25 percent of the position's time; and (3) meets at least Level 3-2 of Factor 3 – Supervisory and Managerial Authority Exercised in the GSSG based on supervising Federal civilian employees, Federal military or uniformed service employees, volunteers, or other non-contractor personnel.

The appellants' position does not meet Level 3-2a which entails: planning and scheduling ongoing production-oriented work on a quarterly and annual basis, or directing assignments of similar duration; adjusting staffing levels or work procedures within their organizational unit(s) to accommodate resource allocation decisions made at higher echelons; justifying the purchase of new equipment; improving work methods and procedures used to produce work products; overseeing the development of technical data, estimates, statistics, suggestions, and other information useful to higher level managers in determining which goals and objectives to emphasize; and deciding the methodologies to use in achieving work goals and objectives, and in determining other management strategies. As discussed previously, these functions are performed by the HPC or by higher level officials at [Organization].

The appellants' position does not meet Level 3-2b since the security work of the unit is not contracted out and the appellants do not perform the contractor oversight functions described in the GSSG at this level.

The appellants' position does not meet Level 3-2c, which requires a position to fully meet at least three of the first four, and a total of six or more of the following 10 listed authorities and responsibilities:

1. Plan work to be accomplished by subordinates, set and adjust short-term priorities, and prepare schedules for completion of work;
2. Assign work to subordinates based on priorities, selective consideration of the difficulty and requirements of assignments, and the capabilities of employees;
3. Evaluate work performance of subordinates;
4. Give advice, counsel, or instruction to employees on both work and administrative matters;
5. Interview candidates for positions in the unit; recommend appointment, promotion, or reassignment to such positions;
6. Hear and resolve complaints from employees, referring group grievances and more serious unresolved complaints to a higher level supervisor or manager;

7. Effect minor disciplinary measures, such as warnings and reprimands, recommending other action in more serious cases;
8. Identify developmental and training needs of employees, providing or arranging for needed development and training;
9. Find ways to improve production or increase the quality of the work directed;
10. Develop performance standards.

In order for a position to be credited with any of the authorities and responsibilities under Level 3-2(c), the position must perform all the functions listed, e.g., one of them states “interview candidates for positions; recommend appointment, promotion, or reassignment to such positions.” The appellants’ position is not given credit for this authority since they do not interview candidates for positions. The record shows the appellants’ position is properly credited with (2) assigning work based on priorities, selective consideration of the difficulty and requirements of assignments, and the capabilities of employees, (3) evaluating work performance authorities and responsibilities, and (6) hearing and resolving complaints, and referring group grievances and more serious complaints to the HPC. They perform portions of other authorities and responsibilities: the individual functions of giving advice on work matters (4), recommending appointments, promotions, or reassignments (5). Thus, the record shows the appellants’ position does not meet Level 3-2c. Therefore, we find the appellants’ position does not meet the GSSG’s minimum coverage requirements, it may not be titled “Supervisory”, and thus the GSSG cannot be used for grading purposes.

We find the appellants’ position is covered by Part I of the General Schedule Leader Grade Evaluation Guide (GSLGEG) since they lead three or more employees in clerical or other one-grade interval GS work, perform the same kind and level of work performed by the team led, and their leader duties constitute a major duty occupying at least 25 percent of the position’s time. The appellants perform the same security guard duties as the three GS-085-4 Security Guards in the patrol boats. In addition, the appellants, as “shift supervisors”, perform oversight over the staff of the two patrol boats as discussed previously in this decision, spend at least 25 percent of their time performing 13 of the 14 leader duties in Part I of the GSLGEG as listed below:

- Distributing and balancing the workload, assuring timely accomplishment of workload, and assuring enough work is distributed to keep the team busy;
- Monitoring status and progress of work, making daily adjustments as necessary, and obtaining assistance on problems which may arise;
- Estimating and reporting on extended time of completion of work, maintaining records of work and preparing production reports as requested;
- Instructing employees in specific tasks and job techniques, and making available written instructions, reference materials and supplies;
- Giving on-the-job training to new employees in accordance with established procedures and practices;

- Maintaining current knowledge and answering questions on procedures, policies, directives, etc., and obtaining needed information or decisions from the supervisor on problems that occur;
- Checking work in progress or spot checking work, reviewing completed work to see that supervisor's instructions on work sequence, procedures, methods, and deadlines have been met;
- Amending or rejecting work not meeting established standards, referring to supervisor questions or matters not covered by standards and problems in meeting performance standards;
- Monitoring working conditions such as seating, ventilation, lighting, safety;
- Informing employees of available services and employee activities;
- Resolving simple, informal complaints of employees and referring others to the supervisor;
- Reporting to supervisor on performance, progress, and training needs of employees, and on behavior problems; and
- Providing information to supervisor as requested concerning promotions, reassignments, recognition of outstanding performance, and personnel needs.

Therefore, their position meets GSLGEG coverage requirements.

Based on the mandatory titling requirements of the Guide, Lead Security Guard is the established title for leader positions in the GS-085 series. The agency added a parenthetical title of Patrol Boat Operator to the basic title. The *Introduction* states that parenthetical titles may be used to further identify the duties and responsibilities which reflect special knowledge and skill needed to perform the work. Therefore, the appellants' position is allocated as Lead Security Guard, GS-085, with a parenthetical designation at the discretion of the agency.

Grade determination

Evaluation using the GSLGEG

Part I of the GSLGEG states leader positions are classified one GS grade above the highest level of nonsupervisory work led. It also states neither the number of workers nor the variety of occupations in which they perform work impact the grade of the leader position. The base level of work needs to be determined in order to grade the leader position. It is usually the grade of the highest level employee on the team other than the leader or a supervisor. However, care must be taken to assure that this grade reflects the level of nonsupervisory work actually led.

One occupant of the patrol boats is a GS-085-5 land based Security Guard who is learning all aspects of vessel operations. The grade of this employee does not reflect the level of work performed on the patrol boats and so does not affect the level of nonsupervisory work led. Another occupant of the patrol boats is a GS-083-6 Police Officer. The appellants are not fully qualified to perform 083 series work nor do they have enough knowledge of the occupation to lead the work. Therefore, the grade level of this employee's work also does not affect the level of nonsupervisory work led. The remaining occupants of the patrol boats are GS-085-4 Security Guard (Patrol Boat Operators). The appellants are fully knowledgeable of this occupation and,

as discussed later in this decision, perform GS-4 security guard work. Therefore, we find the base level of work led is GS-4.

Evaluation using the Guide

The Guide uses the Factor Evaluation System (FES) under which factor levels and accompanying point values are assigned for each of the nine factors, with the total then being converted to a grade level by use of the grade-conversion table provided in the Guide. Under the FES, each factor-level description in a PCS describes the minimum characteristics needed to receive credit for the described level. Therefore, if a position fails to meet the criteria in a factor-level description in any significant aspect, it must be credited at a lower level unless the deficiency is balanced by an equally important aspect that meets a higher level. Conversely, the position may exceed those criteria in some aspects and still not be credited at a higher level. Our evaluation with respect to the nine FES factors follows the non-Leader work performed by the appellants and the GS-085-4 Security Guard (Patrol Boat Operators) they lead.

Factor 1, Knowledge Required by the Position

This factor measures the nature and extent of information or facts a worker must understand in order to do acceptable work and the nature and extent of skills needed to apply that knowledge.

At Level 1-2, security guards use knowledge of commonly used rules, procedures, and operations to perform work independently in a variety of fixed post and patrol assignments within a Federal installation or building. This level of knowledge is typically acquired through formal classroom and/or on-the-job training which outlines the scope of jurisdictional boundaries, defines the levels of each security guard's authority, and prepares the security guard to perform a variety of recurring activities within the assigned installation. Typical guard duties at this level include such tasks as controlling personnel access by monitoring the identification of individuals entering controlled areas and patrolling office and industrial buildings to prevent theft or damage to Federal property, equipment, tools, and supplies. Guards at this level use knowledge of established rules, regulations, and legal authorities to perform duties and responsibilities within prescribed limitations on the use of detention authority and the use of force (including weapons) according to circumstances encountered during the performance of duties.

At Level 1-3, security guards use knowledge of a body of established rules, procedures, and methods of operating to perform independently the full range of guard activities at Federal installations. These activities may involve a diverse range of protective responsibilities over Federal property, employees, and visitors. The work also requires knowledge of specialized operating requirements, methods, and procedures to control access to highly sensitive national defense materials or processes, protect national treasures under Federal control, enforce specialized personnel access controls, protect and prevent unauthorized access to areas containing valuable documents or hazardous materials, detaining violators, subduing violent patients, and other situations requiring special training and experience. Examples of such situations may include installations involved in manufacturing and storing of nuclear weapons; manufacturing or research facilities involving highly classified national defense information

and/or processes; hospital and research installations where there is significant potential for releasing materials that could seriously endanger public health; and other facilities containing materials or processes that require protective methods.

Level 1-2 is met. The appellants' primary responsibility is to maintain the security of [Organization] restricted waters on the west side of the Cape Fear River. Similar to this level, the appellants conduct water-based security patrols of vessels on berth and the waterfront facilities; and observe the three wharves and the special equipment used for loading and unloading explosives, e.g. cranes to ensure unauthorized boats and personnel do not enter. One aspect of the security patrols is to ensure the buoys, barriers, pylons, lights, and signs clearly mark the restricted waters and are visible to other water craft. This, however, does not stop unauthorized boats from entering the restricted waters which occurs more frequently between the months of March and November when boaters unfamiliar with the area inadvertently stray into [Organization] waters. When this happens, one of the patrol boats stops the vessel and the appellants explain they entered restricted waters and discuss with the operator where the vessel is going. Information such as the stopped vessel's make, model, State registration number, and picture identification cards for each adult onboard is forwarded to the [Organization] desk sergeant who runs a National Crime Information Center (NCIC) check looking for outstanding warrants against any adult onboard the stopped vessel and a check to see if the vessel is stolen or if there is any other irregularity with the vessel. The appellants also observe the occupants for things such as illegal alcohol or drug consumption or suspicious movements. If the checks are clear and no illegal activity is observed, the stopped vessel is escorted to the unrestricted waters of the Cape Fear River. If one of the boat passengers wants to take a picture of one of the ships on berth, the appellants explain it is a violation to take pictures, and will have to confiscate the film or the camera. Once a vessel is stopped, the appellants correct any unsafe boating practices they may have observed such as driving at high speeds or riding on the bow of the boat. Like Level 1-2, the appellants perform their work by applying knowledge of [Organization] restricted water boundaries, directly applicable standard operating procedures (SOPs) explaining boat operating guidelines and the procedures to follow once an unauthorized vessel is detained to deal with these situations, and current Federal and State safe boating practices and operations.

Level 1-3 is not met. Unlike this level, the appellants do not use specialized operating requirements to safeguard sensitive national defense materials, protect national treasures, or prevent unauthorized access to hazardous materials which could affect public health or safety. The record shows [Organization] ships conventional munitions as needed around the world. While the presence of munitions has public safety and national security implications, they do not meet Level 1-3. The public safety issue is minimized due to [Organization] isolated location along [Location] coast. One of the SOPs the appellants follow, 190-10 Harbor Patrol Operations, Annex B states [Organization] has no assets which would seriously jeopardize national security. The base does not ship nuclear munitions. It contains a temporary holding area for munitions or hazardous materials. Like Level 1-2, the appellants encounter security breaches due to a boat driver accidentally entering [Organization] restricted waters.

Similar to Level 1-3, the appellants occasionally (at most eight times a year) perform water rescues (e.g. tow a disabled boat or bring kayakers in distress back to shore) or assist the Coast Guard with water rescues. The *Introduction* states that work may be grade controlling only if it

is regular and recurring and occupies 25 percent or more of the position's work time. In applying this principle to emergency response GS-085 and GS-083 (Police Officer) positions, established OPM guidance states regular and recurring conditions are satisfied when (1) the employee receives training in the function that would normally warrant a higher grade, (2) proficiency is maintained in the specialty area for which the training was provided, and (3) the training is actually used on the job on some regular basis relative to incidents that actually occur, or (4) there is a measurable potential or reasonable assumption that incidents will arise, requiring the skill to be used in emergency, short notice working conditions, e.g., based on past experience or on some kind of measurable indicator, such as the nature and frequency of crimes committed in the immediate vicinity of the Federal installation. The record shows there were only three instances of trespassing over the last three years. While the appellants cannot know the intentions of an unauthorized vessel operator or passenger, these situations are not regular and recurring for classification purposes as discussed previously and Level 1-3 may not be assigned.

This factor is evaluated at Level 1-2 and 200 points are assigned.

Factor 2, Supervisory Controls

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

At Level 2-2, the supervisor makes individual assignments for the shift for traffic control points, patrol areas, escort assignments, complaints received, or other special and recurring tasks, indicating generally what is to be done, the priority of assignments, and any special concerns or approaches to be taken by the employee. Beginning of shift briefings provide information on handling the aftermath of events, and the supervisor provides additional, specific instructions for new, difficult, or unusual assignments. The employee uses personal initiative in carrying out recurring assignments independently without specific instructions about how to do the work or the precise methods to apply. The employee is expected to call for backup or to seek supervisory assistance and advice in case of life-threatening emergencies, unusual problems, or unfamiliar situations. Completed work is reviewed for technical adequacy, adherence to standard procedures and methods, and compliance with special instructions.

At Level 2-3, the supervisor makes assignments such as long-term investigations and undercover work within the employee's scope of responsibilities; defines the objectives, priorities, and deadlines; and assists the employee in unusual situations which do not have clear precedents. The employee plans and carries out the steps required according to specific case conditions, and handles deviations from established procedures by resolving problems that arise according to agency or local standards, previous training and experience, established practices, legal precedents, or other controls appropriate to the immediate circumstances. Assignments may require the employee to perform investigations extending for periods of time beyond a single shift and to ascertain interrelationships with other cases or law enforcement agencies that may affect the methods and procedures used. Completed work is evaluated for technical soundness, ability to obtain prosecution of cases, success in solving crimes and violations, and contributions to the unit's crime prevention program. Techniques used by the employee are not usually reviewed in detail.

Level 2-2 is met. Similar to this level, the shift supervisor (the appellants) briefs the other patrol boat occupants at the start of the shift which includes providing their boat assignments, and determining which boat will patrol a 1,000 meter security zone around the vessels at berth (as needed), providing a synopsis of what occurred during the previous shift, and if any further action needs to be taken on the current shift, informing them if any training is scheduled, and if any new vessels will arrive. The patrol boat occupants exercise independent judgment in carrying out their assignments in accordance with the instructions they receive during their briefing and established [Organization] SOPs and they are expected to modify these instructions or procedures to fit the situation. If any unusual problems or unfamiliar situations are encountered, the patrol boat occupants seek guidance from the shift supervisor (the appellants).

Level 2-3 is not met. Unlike this level, the appellants' assignments do not include long-term investigations or undercover work, or allow them to deviate from established procedures. The appellants are responsible for conducting only the preliminary portion of investigations into maritime traffic accidents, incidents, etc., to include taking statements from witnesses and photographs of the scene. The information gathered is provided to the HPC and is distributed for further investigation by police officers or land-based security guards. Like Level 2-2, the appellants independently carry out their recurring assignments and the SOPs they use are applicable. If the other patrol boat occupants need to make major deviations, they are discussed and approved by the shift supervisor (the appellants).

This factor is evaluated at Level 2-2 and 125 points are assigned.

Factor 3, Guidelines

This factor covers the nature of guidelines and the judgment needed to apply them. Guides used in GS occupations include, for example, desk manuals, established procedures, policies, and traditional practices, and general reference materials such as dictionaries, style manuals, engineering handbooks, and the pharmacopeia.

At Level 3-2, guidelines for security guards include local manuals and handbooks that describe the guard force jurisdiction; limits on authority to detain individuals; responsibilities for protecting property and persons; operating manuals and instructions for weapons, communications, and other equipment commonly used by the guards; and standing and special operating procedures for each post assignment. The number and relationships of guidelines requires the employee to use judgment in identifying and applying the proper procedures and techniques for application to specific actions when protecting property, enforcing the law, or assisting people. The employee also exercises judgment in making minor deviations from available guidelines according to the specific circumstances encountered at the scene of activity. The level of judgment used will vary according to the circumstances or persons confronted and the availability and clarity of established guidelines and procedures.

At Level 3-3, the guidelines are generally similar to those described at the next lower level. However, because of the nature of work assignments or the environment in which they are performed, the guidelines are not always applicable or there are gaps in specific applicability in

circumstances such as those encountered in volatile emergency situations such as terrorist attacks, hostage situations, armed robbery, prolonged investigations, or when enforcing traditional (written or unwritten) customs or laws.

Level 3-2 is met. The appellants follow [Organization] SOPs as discussed previously in this decision, Army's Use of Force guidelines and watercraft regulations; and Coast Guard and [Location] maritime laws and regulations on safe boating practices and operations. The appellants exercise judgment in applying the guidelines to specific situations, such as when they stop a vessel which entered restricted waters and gather information concerning the vessel's make, model, State registration number and picture identification for each adult onboard for checks to be run. The appellants must decide whether to place the operator in detention or release the vessel based on the results of the NCIC and vessel checks, and the appellants' observations of the vessel operator and passengers. The shift supervisor (the appellants) provides assistance when the guidelines are not applicable to the situation.

Level 3-3 is not met. Unlike this level, the appellants' work assignments and environment do not require them to regularly deal with such emergency situations as terrorist attacks, hostage situations, or armed robberies as discussed previously in this decision. Like Level 3-2, the appellants carry out their work assignments in a routine security environment where they do not encounter volatile emergency situations. As necessary the appellants can seek guidance from the land-based manager on duty.

This factor is evaluated at Level 3-2 and 125 points are assigned.

Factor 4, Complexity

This factor covers the nature, number, variety, and intricacy of tasks, steps, processes, or methods in the work performed; the difficulty in identifying what needs to be done; and the difficulty and originality involved in performing the work.

At Level 4-2, the work includes various duties requiring the employee to perform related steps, processes, or methods for the completion of each assignment. The employee identifies the conditions involved and decides what kind of action to take, including the level of force required. Actions to be taken by the employee differ depending on such things as the source of information (distress call, call for assistance, request for information); the nature and level of perceived threat to self and others; the nature of the facility involved (office building, manufacturing facility, hospital, residential area); the seriousness of the violation or potential violation (robbery, assault, speeding, drunk, disorderly); or other differences of a factual nature. The employee identifies the conditions involved and decides what kind of action to take, including the level of force required.

At Level 4-3, the work includes various duties requiring the application of different and unrelated methods, practices, techniques, or criteria. The work typically involves such assignments as extensive investigative responsibilities (e.g. detective work extending beyond the span of a single shift), assignments that vary frequently in the nature of cases handled, and assignments requiring the application of a wide variety of police techniques to resolve. The

employee decides what actions to take and the applicable methods based on an assessment of facts obtained from other officers, witnesses, and personal observations. Decisions made vary according to the nature of the perceived threat, and by the nature of hazards imposed by the local terrain, weather, or other conditions. The employee decides whether standard or special procedures are appropriate, and whether the situation is real or simulates a potential threat. The chosen course of action may be selected from several alternatives depending on the nature of the case, facts and clues available, personal analysis of case information, jurisdictional questions, and other information. The nature of the incident or threat, presence or absence of weapons, number and kinds of persons encountered, and other variables must be assessed to determine the proper course of action.

Level 4-2 is met. Similar to this level, the appellants perform various duties such as conducting water-based security patrols of vessels on berth and the waterfront facilities; observing the three wharves and the special equipment used for loading and unloading explosives, and checking the buoys, barriers, pylons, lights, and signs to ensure they clearly mark the restricted waters and are visible to other water craft to ensure unauthorized boats and personnel do not enter. Although they follow a routine patrol process, the appellants cannot know the intentions of an unauthorized vessel operator or passenger entering [Organization] restricted waters and must conduct each stop with tact, diplomacy, and good judgment. Like Level 4-2, the appellants follow their SOPs and agency level regulations to determine how to deal with each situation.

Level 4-3 is not met. Unlike this level, the appellants' work assignments do not include conducting investigations, assignment of various types of cases, or choosing a course of action from several alternatives. Similar to Level 4-2, their work assignments are performed in a routine environment. The appellants perform water-based security patrols of [Organization] restricted waters, stop unauthorized vessels within the restricted waters, gather the required information needed for a vessel and NCIC checks to be run and use that information to decide whether to detain the unauthorized vessel or escort it back to the unrestricted waters of the Cape Fear River.

This factor is evaluated at Level 4-2 and 75 points are assigned.

Factor 5, Scope and Effect

This factor covers the relationship between the nature of the work, and the effect of the work products or services both within and outside the organization.

At Level 5-2, employees perform a full range of security guard duties by following and executing specific rules, regulations, or procedures covering law and rules enforcement, physical and personal security operations, patrol duties, control clerk duty, coordination with local courts, and/or crime prevention activities for local jurisdictions. The work or services affect the acceptance of law enforcement and security programs, contribute to crime prevention programs, influence employees and visitors to cooperate with the security force, and set an example for conforming with laws, rules, and regulations. The work also affects the secure flow of work processes and materials, and provides for a sense of personal security that enhances productivity of individuals in the work place.

At Level 5-3, the employee treats a variety of law enforcement problems ranging from simple rules violations to felony crimes in conformance with established criteria, methods, techniques, and procedures. They also perform criminal investigative work such as that performed by detectives. The results of the work contribute to crime prevention objectives in the local installation or jurisdiction and the adequacy of the local law enforcement program. Work resulting in the charging of or convicting of persons for a violation affects the economic well-being and freedom of individuals.

Level 5-2 is met. Similar to this level, the appellants perform the full range of water based security patrols throughout [Organization] restricted waters and water-front facilities. The work affects the safety of those working at the installation and the public by being proactive in removing trespassing vessels from [Organization] restricted waters.

Level 5-3 is not met. Unlike this level, the appellants do not perform law enforcement activities such as charging persons with violations of law or felony crimes, or performing criminal investigative work. Like Level 5-2, the appellants ensure the physical security of [Organization] water-front facilities and restricted waters. The record shows virtually all unauthorized vessel stops involve innocent trespass. The appellants do not have arrest authority and rarely exercise their detention authority.

This factor is evaluated at Level 5-2 and 75 points are assigned.

Factor 6, Personal contacts

This factor includes face-to-face contacts and radio dialogue with persons not in the supervisory chain. Levels described under this factor are based on what is required to make the initial contact, the difficulty of communicating with those contacted, and the setting in which the contacts take place.

At Level 6-2, contacts are with members of the general public, as individuals or groups, in a moderately structured setting (e.g. the contacts are generally established on a routine basis, usually at the employee's work place; the exact purpose of the contact may be unclear at first to one or more of the parties; and one or more of the parties may be uninformed concerning the role and authority of other participants). Contacts at this level are cooperative persons stopped for traffic violations or persons questioned as witnesses to a violation of rule or law.

At Level 6-3, personal contacts are with individuals or groups from outside the employing agency in a moderately unstructured setting (e.g. the contacts are not established on a routine basis, the purpose and extent of each contact is different, and the role and authority of each party is identified and developed during the course of the contact). Contacts may also be with violators of laws, rules, or regulations where those contacted are reluctant to accept the officer's authority, may resist detention or attempt to flee, or with unruly individuals who pose a threat to the officer and/or other individuals present.

Level 6-2 is met. Similar to this level, the appellants' contacts are with members of the general public in a moderately unstructured setting. These contacts are with operators and passengers of vessels which inadvertently trespassed into restricted waters which are equivalent to stopping a motor vehicle driver for a traffic violation. The contacts take place at the appellants' work place and the exact purpose of the contact may be unclear at first for the other party since the vessel operator likely is unaware of entering a restricted area. The record shows the vessel operators are cooperative with the appellants when told the vessel trespassed. Their contacts with [Location] Marine Patrol Officers, the [Locations] Sheriffs, and U. S. Coast Guard members are to share information.

Level 6-3 is not met. Unlike this level, the appellants' contacts are not with those from outside the agency in a moderately unstructured setting. The contacts are not with members of the general public who do not accept the appellants' authority, attempt to flee or pose a threat to the appellants or others. Like Level 6-2, the appellants' contacts may trespass into restricted waters but they are cooperative and unaware of breaking the law.

This factor is evaluated at Level 6-2 and 25 points are assigned.

Factor 7, Purpose of contacts

The purpose of personal contacts ranges from factual exchanges of information to situations involving significant or controversial issues and differing viewpoints, goals, or objectives. The purpose of contacts should relate directly to the level of contacts selected under Factor 6.

At Level 7-1, the purpose is to obtain, clarify, or give facts or information regardless of the nature of those facts (i.e. the facts or information may range from easily understood to highly technical). Information exchanged may include directions to a location or person, straightforward explanation of established security procedures, explaining the rights of accused persons, or other information of a factual nature.

At Level 7-2, the purpose is to plan, coordinate, or advise on work efforts or to resolve operating problems by influencing or motivating individuals or groups who are working toward mutual goals and who have basically cooperative attitudes. Contacts may include coordinating the installation of new or revised access controls or security monitors and alarms, implementing patrol procedures, coordinating alarm response procedures with security and subject-matter personnel, explaining proposed traffic control patterns and speed limit requirements, making presentations about local crime prevention programs, and similar activities that require an explanation to and acceptance by employees and visitors at the installation.

Level 7-1 is met. Similar to this level, the purpose of the appellants' contacts is the exchange of information. Information exchanged with other [Organization] personnel may include the status of the patrol boats, weather and/or river conditions, schedules of ships entering/leaving the installation, etc. Information exchanged with members of the public includes explaining the restricted water boundaries of the Cape Fear River, the fact a security breach occurred which requires a vessel and NCIC checks, and navigational information on the international shipping channel and the inter-coastal waterway.

Level 7-2 is not met. Unlike this level, the appellants' work situation does not allow them to persuade or motivate others on a regular and recurring basis. They also do not plan or coordinate work or engage in significant problem solving as these requirements do not present themselves in the straight forward patrol work they perform. Since the appellants' position does not even meet Level 7-2 for the reasons above, we will not discuss Level 7-3.

This factor is evaluated at Level 7-1 and 20 points are assigned.

Factor 8, Physical demands

This factor covers the requirements and physical demands placed on the employee by the work assignment.

At Level 8-2, the work requires regular and recurring physical exertion such as long periods of standing, walking, driving, bending, stooping, reaching, crawling, and similar activities. Employees engage in such exertions when responding to alarms, pursuing suspects, or participating in weapons or other kinds of training, climbing stairs in buildings, or walking foot patrols. The work may also involve regular lifting and carrying of objects weighing up to 50 pounds.

At Level 8-3, the work requires, on a regular and recurring basis, considerable and strenuous physical exertion such as frequent climbing of multiple flights of stairs, lifting heavy objects over 50 pounds, crouching or crawling in restrictive areas during search or pursuit activities, or defending oneself or others against physical attack.

Level 8-2 is met. Similar to this level, the appellants' position requires long periods of standing while patrolling the restricted waters, taking turns driving the patrol boat, and pulling securing lines for the patrol boat or when providing assistance to other watercraft. They also regularly lift objects weighing up to 50 pounds such as when removing the patrol boat's anchor from the mud and removing flotsam, e.g. logs, and parts of platforms from the Cape Fear River.

Level 8-3 is not met. Unlike this level, the appellants' position does not require regular and recurring climbing of multiple flights of stairs, lifting objects over 50 pounds, searching restrictive areas, or defending against physical attack. The appellants' duties on a patrol boat do not require this level of exertion.

This factor is evaluated at Level 8-2 and 20 points are assigned.

Factor 9, Work environment

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

At Level 9-2, the work is performed in settings in which there is regular and recurring exposure to moderate discomforts and unpleasantness, such as high levels of noise in industrial settings,

high temperatures in confined spaces, or adverse weather conditions during extended periods of traffic and patrol duties. The employee may be required to use protective clothing or gear, and the work involves moderate risk requiring the exercise of safety precautions when working around hazardous materials. The work also involves moderate risk and discomfort when working outdoors without shelter or operating vehicles for extended periods of time over rough terrain.

At Level 9-3, the work regularly involves high risks with exposure to potentially dangerous situations or unusual environmental stress which require a range of safety and other precautions. This level includes work in a high crime area where the public has easy access and officers must patrol in locations where persons may be armed while attempting auto theft, vandalism, narcotics transactions, and other offenses which can lead to assault with or without a weapon in order to avoid arrest. Also at this level police and guard operations are regularly performed in areas of extremely rough terrain with wide annual climatic variations.

Level 9-2 is met. Similar to this level, the appellants are exposed to the moderate discomforts and unpleasantness associated with boat operations on a regular basis such as wind, sun, rain, snow, engine noise/fumes, water currents, etc. Their work requires the exercise of normal boating safety precautions.

Level 9-3 is not met. Unlike this level, the appellants' work is not regularly performed in high crime areas or in areas with rough terrain.

This factor is evaluated at Level 9-2 and 20 points are assigned.

Summary

| <i>Factor</i> | <i>Level</i> | <i>Points</i> |
|---------------------------------------|--------------|---------------|
| 1. Knowledge Required by the Position | 1-2 | 200 |
| 2. Supervisory Controls | 2-2 | 125 |
| 3. Guidelines | 3-2 | 125 |
| 4. Complexity | 4-2 | 75 |
| 5. Scope and Effect | 5-2 | 75 |
| 6. Personal Contacts | 6-2 | 25 |
| 7. Purpose of Contacts | 7-1 | 20 |
| 8. Physical Demands | 8-2 | 20 |
| 9. Work Environment | 9-2 | <u>20</u> |
| <i>Total Points</i> | | 685 |

The total points fall within the GS-4 point range of 655 to 850 in the Guide.

Decision

The appellants' security guard duties are properly graded at the GS-4 level, and their work leader duties are graded at the GS-5 level. Based on the application of mixed grade principles as discussed in the *Introduction*, the position is properly classified as Lead Security Guard, GS-085-5, with a parenthetical designation at the discretion of the agency.