

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



Atlanta Oversight Division
75 Spring Street, SW., Room 972
Atlanta, GA 30303

Classification Appeal Decision
Under Section 5112 of Title 5, United States Code

Appellant: [Appellant]

Agency classification: Fishery Biologist
GS-482-11

Organization: Forest Service
U.S. Department of Agriculture

OPM decision: Fishery Biologist
GS-482-11

OPM decision number: C-0482-11-01

Kathy W. Day
Classification Appeals Officer
2/4/99

Date

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

Decision sent to:

[Appellant]

[Personnel Officer]

Mr. Roger L. Bensey
Director, Office of Human Resources
Management
U.S. Department of Agriculture
J.L. Whitten Building, Room 316W
1400 Independence Avenue, SW.
Washington, DC 20250

Introduction

On December 10, 1998, the Atlanta Oversight Division, U. S. Office of Personnel Management, accepted an appeal for the position of Fishery Biologist, GS-482-11, [organizational location], Forest Service, U.S. Department of Agriculture, [geographical location]. The appellant believes his position should be graded at the GS-12 level.

The appeal has been accepted and processed under section 5112(b) of title 5, United States Code. This is the final administrative decision on the classification of the position subject to discretionary review only under the limited conditions and time outlined in part 511, subpart F, of title 5, Code of Federal Regulations.

General issues

The appellant believes his position description should be properly evaluated at the GS-12 level. He indicates that during a previous review, his personnel office determined that he was performing GS-12 level duties, but because of a freeze on personnel actions, his position was never upgraded. A more recent evaluation determined that the position is properly classified at the GS-11 level. Although he is physically located in a district, he functions in a staff position in the Supervisor's Office, [organizational location]. He believes his program and staff level responsibilities have not been properly recognized because he is located in a field office.

Position information

The appellant is responsible for coordinating and/or implementing various aquatic ecology and fishery resources related activities and providing high level professional support and technical information to forest resource managers and other personnel concerning aquatic ecology and fishery as they relate to ecosystem management for all of [organizational location] though he is physically located in a district office. He provides overall technical guidance and program leadership in planning, organizing, and evaluating the comprehensive Fishery Resource Program including recommending policies, procedures and standards; developing program plans and objectives within allocated budgetary resources; determining projects and studies; and developing cooperation from individuals, user groups, and regional, Federal, and State agencies and organizations.

The appellant prepares and implements aquatic ecology and fishery resource monitoring plans, inventories, and studies, and maintains, provides, and analyzes data needed for resource management proposals. He directs investigations to assess the history and population dynamics of various fish and aquatic species and to document angler use and sport fish harvest. He maintains close working relationships with researchers in order to interpret, evaluate, and translate the current research data for local use. He also develops plans for preventive actions to insure the protection of the aquatic ecosystem and fishery resources.

The appellant works under the overall administrative direction of the Ecosystem Management Staff Officer. He receives broad program guidance and works directly with the Regional Fish and Wildlife Program Manager on issues of a program nature. The appellant and his supervisor consult on

priorities and deadlines for specific projects; however, the appellant performs assignments independently, resolving most conflicts which arise and coordinating the work with others as necessary. The appellant keeps his supervisor and the program manager informed of progress and potentially controversial matters as he deems necessary.

Series determination

The agency determined that the position is properly placed in the Fishery Biology Series, GS-482, and the appellant agrees. The GS-482 series includes positions which require professional knowledge and competence in the science of fishery biology to manage, develop, and conserve fishery resources and evaluate the impact of activities that present potential or actual adverse effects. We agree that the GS-482 series is appropriate for the appellant's position.

Title determination

The title *Fishery Biologist* is designated for all positions which are not primarily engaged in research or administrative management of a program.

Standard determination

Fishery Biology Series, GS-482, January 1991.

Grade determination

The GS-482 classification standard is written in the Factor Evaluation System (FES) format. Under the FES, positions are placed in grades on the basis of their duties, responsibilities, and the qualifications required as evaluated in terms of nine factors common to nonsupervisory General Schedule positions.

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

Under FES, positions which significantly exceed the highest factor level or fail to meet the lowest factor level described in a classification standard must be evaluated by reference to the Primary Standard, contained in Appendix 3 of the Introduction to the Position Classification Standards. The Primary Standard is the "standard-for-standards" for FES.

The appellant disagrees with the agency's present evaluation of factors 2, 3, 4, 5, 8 and 9. We have reviewed the agency's evaluation of factors 1, 6, and 7 and agree with their findings. Therefore, our evaluation will address only those factors contested by the appellant.

Factor 2 - Supervisory Controls:

This factor covers the nature and extent of direct or indirect controls exercised by the supervisor, the employee's responsibility for carrying out assignments, and how completed work is reviewed. The agency credited Level 2-4. The appellant believes Level 2-5 should be credited.

At Level 2-4, the supervisor establishes overall goals and resources available. The biologist and supervisor confer on the development of general objectives, projects, work to be done, and deadlines. The biologist is responsible for planning and carrying out assignments, selecting the techniques and methodology, and determining the approach to be taken. The biologist is expected to resolve most problems that arise and coordinate the work with others as necessary, to interpret and apply program policy in terms of the established objectives, and to keep the supervisor informed of potentially controversial matters.

At Level 2-5, the supervisory guidance or control is through broad, general objectives and the biologist operates within the context of national legislation, agency policy, and overall agency objectives as they pertain to fishery resources. Within these broad areas of direction, the biologist is responsible for independently determining the validity, soundness of programs and plans, and independently carrying out programs, projects, studies, and investigations. The results of work, including recommendations and decisions, are considered as technically authoritative and are normally accepted without significant change. Work is reviewed in relation to broad policy requirements and administrative controls. Recommendations for new projects and alterations of objectives are usually evaluated for such considerations as availability of funds and other resources, broad program goals, or national priorities.

Level 2-4 is met. The appellant works independently within a framework of priorities, funding, and overall program policies and objectives to develop, implement, and monitor fishery resource activities in the [State]. He plans, initiates and carries out the work, and evaluates the validity of the Fishery Resource Program for the [organizational location], keeping his supervisor informed of ongoing projects and issues of significance.

This falls short of Level 2-5, where the employee is subject only to administrative supervision and broad policy direction, i.e. legislation and/or Department of Agriculture policy, concerning overall major program priorities and objectives. The framework provided by the policy directives from the Forest Service and in the Forest Land and Resource Management (FLRM) Plan under which he works limit the discretion and judgment the appellant has to determine overall priorities, objectives, and the scope of his work. Although the appellant recommended the goals and objectives for the present FLRM Plan and develops the more specific goals and objectives for his program in [State], the Regional Program Manager provided overall guidance for the FLRM Plan and retains final

approval authority for the Fishery Resource Program goals and objectives for [Region]. The presence of a program manager with ultimate program responsibility and final technical authority, even though there is no immediate supervision in the day-to-day operations and the appellant's technical decisions are normally accepted, prevents crediting Level 2-5.

Level 2-4 is credited for 450 points.

Factor 3 - Guidelines:

This factor covers the nature of guidelines used, and the judgment needed to apply them. The agency credited Level 3-3. The appellant believes Level 3-4 is correct.

At Level 3-3, a number of general guidelines are available, and broad objectives have been established. Guidelines may not be completely applicable to the work situation and the biologist uses judgment to determine when to use alternatives or to adapt guidelines for application to specific problems or the biologist may make generalizations from several guidelines.

At Level 3-4, the guidelines are often inadequate to deal with complex or unusual problems or with new, undeveloped or controversial aspects of fishery resources and management. Guides may point to conflicting decisions, there may be few precedents, or court decisions may not coincide with existing guides. The biologist is required to deviate from or extend traditional methods and practices, or to develop new or vastly modified techniques for obtaining effective results.

Level 3-3 is met. Although the appellant believes the problems he handles, particularly those associated with the sterility of the acidic lakes, are complex and unusual, the problems he deals with are not new or undeveloped. There are solutions and guidance available through established research and precedents. However, the appellant must view the alternatives and determine which, if any are appropriate for use in his particular situation and how to best use them or alter various methods to solve or improve the situation and still meet the concerns of interested environmental groups.

Level 3-4 is not fully met. The appellant believes the guides he uses are very broad and do not specifically address the problems he handles. Level 3-3 considers and credits those situations in which only broad or general guidelines are available. To credit Level 3-4, the problems dealt with must be of such complexity or uniqueness that new or vastly modified techniques must be developed because there are few precedents to consider or there are conflicts in the guides that are available. The problems the appellant deals with may require him to adapt methods and guidelines or choose alternatives from among available guides and/or techniques, but he has few if any problems which require him to develop new or vastly modified techniques to obtain results. His most complex problem, according to him, is the acidic lakes and associated fish sterility. While these acidic lakes are not found in many other locations, the problem of acid water has been researched and there are solutions which can be tried to alter the water quality. The appellant must use judgment in determining which solutions to attempt and whether or not the accepted techniques should be altered in any way, and he must consider the desires of environmentalists who do not want to alter the

natural water quality no matter what that quality may be. This does not, however, meet the level of inadequacy of guidelines nor the development of new or vastly modified techniques as described at Level 3-4.

Level 3-3 is credited for 275 points.

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. The agency credited Level 4-4. The appellant believes Level 4-5 is appropriate.

At Level 4-4, biologists are typically involved in a full range of professional activities and in the application of many different and unrelated biological concepts. They apply flexibility and judgment in approaching problems and applying biological methodologies and practices to obtain a balance between program requirements and policies, differences in agency missions, and demands of various interest groups. Assignments involve administrative and resource problems which require indepth analysis and evaluation of alternatives; environmental problems with conflicting requirements accompanied by resolutions which may have serious implications for industry, commercial concerns, or the general public. The biologists must independently identify the boundaries of the problem, the kinds of information needed, and the techniques to be applied. The assignment usually requires biologists to relate new situations to precedents, extend or modify existing techniques, or develop compromises which require substantial effort to overcome resistance to change when it is necessary to modify an accepted method or approach.

At Level 4-5, the work includes varied duties requiring many different and unrelated processes applied to a broad range of activities that cover a wide geographic area, or substantial depth of analysis. Biologists may be responsible for coordinating and planning activities which cover a broad multiple-resource program. Assignments involve such issues as endangered species, evaluation of ecological production functions, or various land based fish production facilities and activities that include problems associated with sophisticated water systems which require complex pumping and filtering systems to deliver water and the need to control parasites and viruses that impact water quality. Fish production activities also include those associated with maintaining national brood stock, maintaining balance of species, long-term survival rates, and information development/exchange pertaining to fish restoration and disease. The work involves solving problems concerned with novel, undeveloped, or controversial aspects of fishery biology and related disciplines. The problems are complex or difficult due to such characteristics as the abstract nature of the concepts, or the existence of serious conflicts among scientific requirements, program direction and administrative requirements. Biologists must be especially versatile and innovative to recognize new approaches, devise new techniques, and anticipate future trends.

Level 4-4 is met. The appellant identified his most complex issues as those dealing with the acidic lakes which were once a nationally recognized resource for sport fishing but which are now sterile; the catch and release program; and the effects of canals and reservoirs on fishery resources. These issues are complex, e.g., they involve impacting the fish population without significantly impacting the natural water quality which is currently acidic and makes the lakes sterile; improving the bass population through catch and release programs which is controversial to sport fishermen and women; and determining how use of the reservoir impacts the fish population. He must apply judgment in determining how to approach these problems, considering biological program methods, practices, and needs as well as the concerns of the general public and environmental groups who may have a differing point of view. He independently determines what to study, how to collect the data, and the resources he has available to devote to the various issues. He uses standard techniques and methods to monitor the fish population, but may modify or adapt them somewhat in the application to his particular study or investigation.

Level 4-5 is not met. The appellant's responsibilities are confined to the [State] with most of the fishery resources located within the [District]. Although he is responsible for developing information and analyzing resources, he does this for the Fishery Resource Program only not for a multiple resource program. His participation on interdisciplinary teams and advice to other resource managers on how their projects may impact his fishery resources does not mean that the appellant is responsible for a broad multiple resource program. According to the supervisor and the program manager, the appellant deals with lake resources that provide many recreational and sport opportunities and some controversial and complex projects dealing with inventory and fishery management and expanding river and stream management. These problems, however, do not present the degree of complexity found at this level, i.e., endangered species, major water resource development projects, sophisticated water systems requiring complex pumping and filtering systems, or the need to control parasites, viruses, and fish diseases. While the appellant has some mildly controversial and unusual problems, such as those created by the acidic lakes or designating a lake for catch and release, he does not fully meet the level of novel or undeveloped aspects of fishery biology described at Level 4-5. The appellant may be somewhat innovative in his approach to analyzing the data he collects or in designing sampling gear or applying measurement techniques, but he is not developing new research techniques nor must he be particularly innovative in order to monitor the fishery resources or the impact of environmental conditions found in his resource area. The full intent of Level 4-5 is not met; therefore, this level cannot be credited.

Level 4-4 is credited for 225 points.

Factor 5 - Scope and Effect:

This factor covers the relationship between the nature of the work, as measured by the purpose, breadth, and depth of the assignment, and the effect of work products or services both within and outside the organization. The agency credited Level 5-3. The appellant believes Level 5-4 is correct.

At Level 5-3, the purpose of the work is to investigate and analyze conventional or common fishery resources and problems and/or environmental conditions in order to recommend or implement solutions that satisfy management objectives. The work affects the adequacy of production, development, protection, management, and use of fish resources by assessing conditions and notifying others about the need to study apparent problems.

At Level 5-4, the purpose of the work includes developing new or improved techniques or criteria for conducting projects; providing advisory, planning, or review services for programs or functions; validating studies for management use; recovering or managing a habitat for endangered species; or evaluating results of research contracts. Work situations may be complicated by administrative problems such as availability of funds and personnel and accuracy of databases. The results of the work or work products affect the work of state and county officials, tribal organizations, and program managers and technical specialists in other agencies, as well as internal agency goals and objectives. Activities typically involve problems which impact or affect the continued existence of a resource or resource area.

Level 5-4 is met. The appellant has program responsibility for fishery resources for the [State]. He provides advisory services to the Regional Program Manager, plans the program objectives and activities, and evaluates the results. He must make decisions based on the availability of resources and the program priorities which may not always come together. The results of his work impacts not only internal goals and objectives, but the work of state agencies such as the State Game and Fish Commission, and efforts of the [university] researchers. The agency determined that this level could not be credited because the appellant does not develop new techniques for conducting projects. However, the standard is written to allow for credit if any of the listed functions are met, i.e., developing new techniques, providing advisory services, validating studies, managing endangered species OR evaluating results.

Level 5-4 is credited for 225 points.

Factor 8 - Physical Demands:

This factor measures the requirements and physical demands placed on the employee in performing the work assignment, including the agility and dexterity required, and the extent of physical exertion. The agency credited Level 8-1. The appellant believes Level 8-2 is appropriate.

At Level 8-1, the work is sedentary and requires no special physical demands.

At Level 8-2, the work requires some physical exertion such as long periods of standing; walking over rough, muddy, uneven, swampy or mountainous terrain; recurring periods of bending, crouching, stooping, stretching, or similar activities; and recurring lifting of moderately heavy items weighing up to 50 pounds.

Level 8-2 is met. The appellant's field duties require the use of boats, canoes, trailers, and outboard motors, as well as considerable walking and climbing over rough, slippery, and uneven terrain.

Level 8-2 is credited for 20 points.

Factor 9 - Work Environment:

This factor considers the risks and discomforts in the employee's physical surroundings, and the safety precautions required. The agency credited Level 9-1. The appellant believes Level 9-2 is appropriate.

At Level 9-1, work is performed in an office or similar setting involving everyday risks or discomforts. The work area is adequately lighted, heated, and ventilated.

At Level 9-2, the work involves regular and recurring exposure to moderate risks such as travel in safety approved small watercraft; moderate discomforts such as exposure to wind, low or high temperatures; and moderate unpleasantness such as insects, noxious odors, and irritating chemicals; or working in areas known to be frequented by hostile wildlife. Special safety precautions are necessary and protective clothing and equipment are required.

Level 9-2 is met. When working in the field, the appellant is exposed to temperature extremes and inclement weather, in addition to a variety to hazards such as alligators, poisonous snakes and plants, and drowning.

Level 9-2 is credited for 20 points.

SUMMARY		
FACTOR	LEVEL	POINTS
1. Knowledge Required By The Position	1-7	1250
2. Supervisory Controls	2-4	450
3. Guidelines	3-3	275
4. Complexity	4-4	225
5. Scope and Effect	5-4	225
6. Personal Contacts and 7. Purpose of Contacts	3c	180
8. Physical Demands	8-2	20
9. Work Environment	9-2	20
	TOTAL	2645

A total of 2645 points falls within the range for a GS-11, 2355 to 2750 points, according to the Grade Conversion Table in the standard.

Decision

The position is correctly classified as Fishery Biologist, GS-482-11.