

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

Dallas Oversight Division
1100 Commerce Street, Room 4C22
Dallas, TX 75242-1027

Classification Appeal Decision
Under section 5112 of title 5, United States Code

Appellant: [appellant's name]

Agency classification: Environmental Scientist
GS-1301-13

Organization: [appellant's immediate organization
Superfund Division
[Region]
Environmental Protection Agency
[city, state]

OPM decision: Physical Scientist
GS-1301-13

OPM decision number: C-1301-13-02

/s/ Bonnie J. Brandon

Bonnie J. Brandon
Classification Appeals Officer

January 31, 2002

Date

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

Since this decision changes the title of the appealed position, it is to be effective no later than the beginning of the fourth pay period after the date of this decision (5 CFR 511.702). The human resources office must submit a compliance report containing the corrected position description and a Standard Form 50 showing the personnel action taken. The report must be submitted within 30 days from the effective date of the personnel action.

Decision sent to:

[appellant's name and address]

[appellant's Human Resources Office]

Director
Office of Human Resources and Organizational Services
Environmental Protection Agency
1200 Pennsylvania Avenue, NW.
Washington, DC 20460

Introduction

On July 26, 2001, the Dallas Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [the appellant]. We received the agency's administrative report on September 21, 2001. The appellant's position is currently classified as Environmental Scientist, GS-1301-13. The agency uses the organizational title of Senior On-Scene Coordinator (OSC) for the appellant's position. The appellant believes the classification of the position should be at the GS-14 or GS-15 grade level. He is assigned to the [Section, Branch], Superfund Division, [Region], Environmental Protection Agency (EPA), in [location]. The appellant previously filed an appeal with EPA headquarters, which sustained the current classification of his position. We have accepted and decided this appeal under section 5112 of title 5, United States Code (U.S.C.).

To help decide the appeal, an OPM representative conducted an on-site audit with the appellant. We also interviewed the appellant's immediate and second-level supervisors during an additional on-site visit. In reaching our decision, we evaluated the findings from the audit, interviews with the supervisors, and the information of record furnished by the appellant and his agency.

General issues

The appellant indicates that Personnel Management Memorandum (PMM) 511-60A (dated December 13, 1989), an internal classification guide developed by EPA, should be used in determining the grade of his position. EPA may find PMM 511-60A useful in ensuring internal classification consistency for its OSC positions. However, by law, we must classify positions solely by comparing their current duties and responsibilities to OPM standards and guidelines (5 U.S.C. 5106, 5107, and 5112). Since comparison to standards is the exclusive method for classifying positions, we cannot compare the appellant's position to EPA's internal guide in deciding the appeal.

Position information

The appellant's immediate supervisor certified that the appellant's position description, [number], is accurate and complete. The appellant, however, believes that the position description does not adequately describe the level of his duties.

The mission of the [Branch] is to plan, develop, coordinate, and implement regional oil and hazardous materials programs, the emergency response program, the Superfund program, and the oil and hazardous materials contingency planning programs under the authorities of the Comprehensive Environmental Response, Compensation, and Liability Act; Superfund Amendments and Reauthorization Act; title III; the Oil Pollution Act; and the Clean Water Act. The Branch maintains a 24-hour capability to respond to oil and hazardous materials incidents resulting from human accidents, terrorist events, or natural disasters.

The Branch comprises only one section, the [Section]. Within the Section, four teams consist of OSC's who are responsible for emergency response activities, on-scene monitoring, and direction

of cleanup and removal of accidental spills and releases of oil and hazardous materials. The Section's activities include the following:

- reviewing hazardous waste sites and conducting in-depth site investigations to determine imminent and substantial endangerment to public health and the environment;
- conducting Superfund removal actions, oversight of contractor operations, and oversight of potentially responsible party removal actions; and
- providing technical assistance to State and local personnel involved in oil or hazardous material cleanup, including response exercises for contingency plan development and chemical safety audits.

As an OSC, the appellant coordinates activities relating to the investigation, evaluation, and removal of hazardous materials at Superfund and Clean Water Act sites. A significant aspect of the appellant's position is the coordination of contractors, other Federal and State entities, and private industry potentially responsible parties to ensure compliance with Federal and State laws and the requirements of contract and cleanup action plans. Major duties of the appellant's position include the following:

- consulting with and advising agency staff and managers; representatives of potentially responsible parties; and engineers, environmental scientists, or other officials of other Federal and State agencies regarding hazardous waste site cleanup processes and compliance with administrative orders, consent decrees, or other enforcement actions;
- managing and overseeing Federal contractors and Federal and State agencies involved in removal/release project activities and potentially responsible party actions;
- serving as project officer for contracted efforts in site removal or spill mitigation where the Federal Government assumes the cleanup duties and evaluating the contractor's compliance with provisions of the contract;
- planning and conducting data interpretation phases of technical and program support projects, assuring accuracy and adequacy of project findings, analyzing results, and making recommendations for action;
- reviewing the status of potential removal sites and developing and maintaining appropriate project plans, preparing and reviewing plans and specifications for removal activities, and recommending approval of or modifications to the plans;
- representing the agency when Federal emergency response is required to address threats to human health or the environment;
- directing the assessment of biological and physical damage caused by release of a hazardous substance for use in agency enforcement actions, to provide assistance to other agencies, or for future research; and

- preparing technical recommendations on cases which will be used as the basis for removal actions or agency policy decisions and coordinating with State officials and legal staff to ensure enforcement actions are initiated as recommended and satisfactorily resolved.

The appellant also serves on various work groups. The work groups develop new regional or national OSC program policy for review, approval, and implementation by appropriate management officials within the agency.

The appellant's duties require knowledge of several physical and environmental science fields, including concepts, principles, and practices sufficient to plan and coordinate activities for the removal of hazardous materials and the mitigation of damage to the site environment. The appellant's position description and other material of record provide more information about his duties and responsibilities.

Series, title, and standard determination

We agree with the agency's determination that the appellant's position is an interdisciplinary professional position involving duties and responsibilities closely related to more than one professional occupation. The agency found that the position could be assigned to one of several professional fields because the nature of the work is such that a person with education and experience in the biological or physical sciences or in environmental engineering would be considered equally well-qualified. In the case of an interdisciplinary position, the final classification of the position is determined by the qualifications of the person selected to fill it. Based on the appellant's education and experience in a field of physical science, the agency placed the appellant's position in the GS-1301 series.

The GS-1300 Job Family Standard for Professional Physical Science Work covers positions in the GS-1301 series, which includes positions that involve professional work in the physical sciences when there is no other more appropriate series; that is, the positions are not classifiable elsewhere. We agree with the agency that the GS-1301 series is appropriate for the appellant's position. The standard authorizes *Physical Scientist* as the basic title for positions in the GS-1301 series. The agency may include a parenthetical title to reflect the special type of work performed by following the titling instructions in the *Introduction to the Position Classification Standards*.

We used the grading criteria in the GS-1300 standard to evaluate the appellant's work. In addition, we used the grade level criteria in the standard for the GS-819 Environmental Engineer Series as a cross reference for this appeal because we have accepted an appeal from another EPA employee who is currently assigned as an Environmental Engineer, GS-819-13, to the same interdisciplinary position. The GS-819 standard includes illustrations and benchmarks that describe positions in a regulatory and enforcement agency with environmental concerns comparable to the appellant's position.

Grade determination

Evaluation using the GS-1300 standard

The GS-1300 standard is written in narrative format and includes appropriate language from the law and grade level criteria, that is, the standard.

Consistent with the law, the standard, and the illustrations in the GS-1300 standard, the appellant's position meets the description for the GS-13 level where employees perform their duties under administrative direction with wide latitude for the exercise of independent judgment and the work is of unusual difficulty and responsibility requiring extended professional, scientific, or technical training and experience which has demonstrated leadership and marked attainments in work assignments. The GS-13 level is a senior expert level involving work for which technical problem definitions, methods, and/or data are highly incomplete, controversial, or uncertain. At this level, the employee's evaluations and recommendations are accepted by others as those of a technical expert. Characteristically, GS-13 scientists represent their program, organization, or the Government's interests (for example, represent the agency before public bodies on controversial projects).

As an OSC, the appellant uses his knowledge, skill, and experience to investigate and evaluate potential hazardous Superfund and Clean Water Act sites and to develop and implement plans to clean up or mitigate the site. Sites are classified and assigned a category ranging from Category I to Category IV+ by the OSC. These categories are subject to change based on further investigation during cleanup or events which may increase the human or environmental threat at the site. Category I sites have the least scope and impact to humans or the environment. Category IV+ sites are oil or hazardous waste sites that include a catastrophic incident of either immediate urgency or such magnitude that it transcends regional or national boundaries, presenting immediate life threatening hazards and environmental destruction. The appellant regularly develops technical recommendations or guidelines that will be used as a basis for potentially responsible party and contractor compliance and EPA enforcement actions.

Once the appellant evaluates a site, he develops an action memorandum, which includes a brief history and background on the site, a determination of the nature of the hazard, whether there is an imminent and substantive threat to humans or the environment, and an estimated cost of cleanup activities. The memorandum must be approved by the division director, after the supervisor has reviewed it, and the Region's legal counsel must concur before action can begin. In developing the action memorandum, the appellant must consider site variables such as unusual types of contamination, the depth and breadth of damage to the local environment, the amount of exposure to surrounding neighborhoods, the inability of potentially responsible party to complete required cleanup activities or pay for the cost of cleanup, and the level of political and media attention the site draws. He uses persuasive skills to convince local, State, or Federal political entities that his plan is the best course of action for that specific site. The scope and effect of the appellant's duties and assignments is almost entirely at the Regional level.

The appellant normally works with two types of prime contractors, one for scientific needs such as soil testing and sample logging and one for the actual removal of hazardous material and

cleanup of the site. Though the multiyear contracts for these services have been negotiated at a national level, the appellant has been delegated the authority to activate the contractors on a cost reimbursable basis. The appellant monitors on-site contractor activities and approves or denies contractor payment request vouchers. When hazards do not pose an immediate threat to humans or the environment, the appellant has the authority to initiate contract negotiations with local contractors, subject to final approval by EPA regional management.

The appellant's position is comparable to the illustration for the GS-13 level where the employee serves as a site manager for a large environmental cleanup project that includes extensive analysis during the site selection process and ongoing management responsibility for a large construction effort. The employee represents the agency in public hearings and in negotiations with local jurisdictions or State regulatory bodies on matters concerning the site. For this illustration, the employee serves as an expert on interpretation of regulations and technical issues associated with the site and oversees the work of contractors. The employee determines approaches to be used and is responsible for results. While demonstrating a marked degree of professional independence and technical expertise, the employee also keeps the supervisor informed of general progress and direction of the work. The employee's work is reviewed from an overall standpoint in terms of feasibility, compatibility with other work, or effectiveness in meeting requirements or expected results.

Similar to the GS-13 description, the appellant performs his assignments with a high level of independence and considerable latitude when planning, implementing, and coordinating actions at specific EPA response sites, including method selection and resolution of complex issues and/or problems while on site. The level of professional knowledge and judgment required for the appellant's position, the representational activities, and participation on work groups to develop policy are characteristic of the GS-13 level.

The appellant's position does not meet the GS-14 level where employees plan and direct or plan and execute major professional, scientific, technical, administrative, fiscal, or other specialized programs, requiring extended training and experience which has demonstrated leadership and *unusual* attainments in professional, scientific, or technical research, practice, or administration. Assignments at the GS-14 level typically include a wide area of responsibility carried out under administrative direction in terms of broad agency policies, objectives, and mission statements. At this level, the work typically has special significance for the success of the organization; for example, it may have significant direct effects over a wide region or over multiple programs or may include responsibility for a new technology especially critical to the organization's programs. Although the appellant plans and directs the cleanup at complex hazardous sites and provides oversight to various Federal, State, local, and private entities involved, he does not work with the level of independence and authority intended for the GS-14 level. The scope and effect of the appellant's duties are almost entirely at the Regional level; however, his assignments do not demonstrate *unusual* attainments in professional, scientific, or technical research fields.

Evaluation using the GS-819 standard

The GS-819 standard is written in the Factor Evaluation System (FES) format, which uses nine factors. Each factor is evaluated separately and is assigned a point value consistent with the factor level definitions described in the standard. The points for all nine factors are then totaled and converted to a grade based on the standard's grade conversion table. Under the FES, each factor level description describes the minimum characteristics needed to receive credit at the level described. For evaluation of some of the factors for the appellant's position, we also referred to the Primary Standard (the "standard for standards") for a thorough understanding of the full intent of the factor. The summary of our evaluation of the nine factors follows.

<i>Factor</i>	<i>Level</i>	<i>Points</i>
1. Knowledge required by the position	1-8	1,550
2. Supervisory controls	2-4	450
3. Guidelines	3-4	450
4. Complexity	4-5	325
5. Scope and effect	5-4	225
6. Personal contacts and	6-3	60
7. Purpose of contacts	7-3	120
8. Physical demands	8-2	20
9. Work environment	9-2	20
<i>Total</i>		3,220

The appellant's position is credited with 3,220 points, which falls within the point range (3,155 to 3,600) for the GS-13 level. Therefore, in accordance with the grade conversion table in the standard, the position is properly graded at GS-13.

Decision

The appellant's position is properly graded at the GS-13 level with the basic title of *Physical Scientist*. At its discretion, the agency may add a parenthetical title in accordance with instructions in the *Introduction to the Position Standards*.