

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

Atlanta Oversight Division
75 Spring Street, SW., Suite 1018
Atlanta, GA 30303-3109

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

Appellant: [appellant]

Agency classification: Chemist
GS-1320-12

Organization: Food and Drug Administration
Department of Health and Human
Services

OPM decision: Chemist
GS-1320-12

OPM decision number: C-1320-12-01

Virginia L. Magnuson
Classification Appeals Officer

October 31, 2002

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]

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Introduction

On May 30, 2002, the Atlanta Oversight Division, U.S. Office of Personnel Management (OPM) received an appeal for the position of Chemist, GS-1320-12, [organization], Food and Drug Administration, Department of Health and Human Services, [location]. The appellant requests that his position be reclassified to GS-13. We received a complete administrative report on August 15, 2002. We have accepted and decided this appeal under section 5112 of title 5, United States Code (U.S.C.).

General issues

The appellant compares his duties to a current GS-1320-13 position in his organization. He also makes various statements about the agency's evaluation and reconsideration of his position. In adjudicating this appeal, our only concern is to make our own independent decision on the proper classification of his position. By law, we must make that decision solely by comparing his current duties and responsibilities to OPM standards and guidelines (5 U.S.C. 5106, 5107, and 5112). Other methods or factors of evaluation are not authorized for use in determining the classification of a position, such as comparison to a position description that may or may not have been properly classified. We will consider the appellant's statements only insofar as they are relevant to making a comparison to the OPM standards and guidelines.

OPM guidelines and previous decisions show that in evaluating positions, current duties are typically those that have occurred in about the last year. The appellant provides information on work accomplished in past years, beginning in 1994. While past accomplishments provide insight on the professional standing and recognition and scientific contributions of the appellant, we will consider these only as they relate to the current work situation.

In reaching our classification decision, we have carefully reviewed all information furnished by the appellant, his supervisors, and his agency, including the official position description. We conducted telephone interviews with the appellant, his immediate supervisor (since June 2002), his last supervisor (from approximately September 2001 to June 2002), his second-level supervisor, and representatives from the agency's human resources office.

Position information

The appellant is assigned to position description number [#]. The supervisor certified the accuracy of the position description. The appellant, however, believes the position is incomplete and does not convey the difficulty level of the work he performs. Based on our review of the actual duties and responsibilities assigned by management and performed by the employee, we find that the official position description is essentially accurate.

The appellant serves as a regulatory scientist in a field laboratory. His branch performs laboratory analyses and examination of food, feed, and cosmetic samples collected by the region's district offices. It also conducts research in a variety of aspects regarding food and feed products. It develops analytical methodology, sampling and sample preparation procedures,

analytical methods validation and collaborative studies, extension of existing analytical methods to existing commodities, and exploration of new systems of analysis.

The appellant performs regulatory analysis of difficult, novel, and complex samples using both officially collaborated and new methods. He currently performs program work with pesticides, as a member of a team. He examines samples, approximately 40 – 50 per week according to management, using a high powered liquid chromatograph (HPLC) and a multi-residue method for analysis. To a lesser extent, the appellant may use mass spectrometry as a confirmation tool. The appellant identifies the need for development of new methods and approaches and initiates projects. He works on refinement and development of methods as time permits, approximately 25 – 30 percent of his time. He performs literature searches for methods, develops new methods, or adapts existing methods to determine carbamates in various commodities and at very low levels. The appellant interprets and evaluates the results of analyses and prepares associated reports of sample findings and methodologies. He occasionally participates in collaborative efforts with other scientists and laboratories, and he provides advice concerning methodology problems to other scientists and analysts in the laboratory, in other Federal agencies, State organizations and private industry. When assigned, he reviews internal analytical packages of other scientists to determine if the science meets the Agency and management expectations. He provides training for less experienced scientists on the precedents, analytical methods and instrumentation used for analysis. The appellant also participates in determining the analytical instrument and equipment needs of the laboratory and performs some instrument repair and modification.

For the past three years, the appellant has focused on projects to analyze nitrites and nitrates in high moisture foods. He developed new methods for detection. As a result of the appellant's methodology development, the appellant has written, as first author, a recent (2002) publication, "Use of Griess Reagents and Vanadium (III) for Reduction of Nitrate in the Simultaneous Ion Chromatographic Determination of Nitrite and Nitrate in Food." This document has not yet been peer-reviewed. In 2001, he also prepared a Laboratory Information Booklet (LIB) on nitrates, which was co-authored with a senior research scientist in the laboratory. LIB's are study reports for internal agency use and they are also available to State laboratories. They do not receive an in-depth review comparable to that given to articles published in respected scientific journals.

In the last 2-3 years, the appellant has worked with a senior research scientist and participated in the development of two other LIB's. He worked with him in developing a new method for detection and confirmation of carbamate pesticides at trace levels from high moisture food using state-of-the-art instrumentation. The appellant performed the liquid chromatography instrumentation portion of the project. Our fact finding determined that the senior research scientist provides leadership for the appellant's projects and reports. The appellant presented findings at the Southeastern Regional Association of Analytical Chemists (AOAC) Conference (December 2001) and prepared a poster presentation for use at the National FDA Science Symposium in Washington, DC (February 2002). In fiscal year 2001, the appellant participated in a one-year research program, Science Advisor Research Associate Program (SARAP), at a local university and, with the same senior research scientist, authored the research project report. The SARAP objective is to further develop the scientific and investigative skills of selected field technical staff whose major work experience has been in some particular area of specialty. The

appellant has recently been approved to spend up to 500 hours of the next year performing formal research in “Rapid HPLC Determination of Nitrates/Nitrites in Baby Food.”

The supervisor assigns work in terms of general objectives and resources or the appellant may originate projects in consultation with the supervisor. The appellant’s work is reviewed in terms of scientific adequacy and adherence to policies and goals and through achievement of objectives.

The appellant’s position requires a professional scientific knowledge to analyze samples and, as needed, to develop or modify analytical methods. It also requires knowledge of procedures, laws, regulations and court precedent associated with the laboratory and knowledge of problems and practices associated with industries or commodities in the area of the appellant’s responsibility. The work requires skill and ability to calibrate and operate various instruments and computer systems in the laboratory.

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 pharmacology or toxicology 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 the field of chemistry, the agency placed the appellant’s position in the Chemist Series, GS-1320, and titled it as Chemist. The appellant does not contest it. We concur.

The GS-1300 Job Family Standard for Professional Physical Science Work covers positions in the GS-1320 series. We used the grading criteria in the GS-1300 standard to evaluate the appellant’s work.

Grade determination

The GS-1300 standard is written in narrative format and includes appropriate language from the law and grade level criteria. Criteria at the GS-9 and above levels are further supplemented by illustrations of work appropriate for each grade level.

At the GS-12 level, work assignments typically involve planning, executing and reporting on original studies or ongoing studies requiring a fresh approach to resolve new problems. The complexity of assignments requires extensive modification and adaptation of standard procedures, methods, and techniques, and development of totally new methods and techniques to address problems for which guidelines or precedents are not substantially applicable. Assignments typically include considerable breadth, diversity, and intensity; varied and complex features; and novel or obscure problems. Completed work is reviewed primarily for general acceptability and feasibility in relation to the overall program. Scientific recommendations are

normally accepted as sound without close review, and study reports and scientific papers are considered to be authoritative scientific documents.

Illustrative of this level are positions which plan very significant projects, advise on improvement of instrumentation or procedural methods, and ensure that special equipment is procured, modified and installed. They plan, coordinate, and implement tests and implement the projects. They may serve as advisors to other scientists, and they may also serve as team leaders. They use initiative, resourcefulness, and past personal experience to deviate from established approaches and precedents to develop methods and procedures and to apply basic principles and theories. They often develop new methods, techniques or precedents to plan and carry out assignments. Work and conclusions are accepted as technically authoritative and are reviewed only for meeting the assignment's objectives.

A second GS-12 illustration is for a position conducting new and complex analyses of food, drugs, biologics, or medical devices in support of regulatory activities. In this situation, employees analyze and validate samples, interpret and evaluate the results, and develop new methods or modify existing ones. They use initiative, resourcefulness, and knowledge of the field to adapt and develop new approaches and methods, to identify areas that need development, and to relate technical developments to the work.

The appellant's work is comparable to the GS-12 level. The appellant performs regulatory work analyzing complex and novel samples and reporting findings using officially collaborated methods that will stand up in court. He also identifies the need for new methods to enable faster and more accurate and precise detection of carbamates at very low levels in various commodities. These are comparable to the very significant projects identified at the GS-12 level since adoption of the method as a standard would save agency resources, provide a safer method than the required official methods, and enable trace detection. Over the past three years, the appellant has analyzed nitrates and nitrites in high moisture foods, including baby foods, in order to determine better methods of detection. The basic instrument methods are published, but each food commodity poses different problems for identification and requires modification. As at the GS-12 level, the appellant uses initiative and past personal experience to deviate from established approaches to develop methods and procedures. He contacted the instrument company and innovated equipment changes for more precise analysis of carbamates. He developed the nitrate/nitrite carbamate project and reported findings. He also works on related projects with a senior research scientist in the branch and advises other scientists and analysts, both in the public and private sectors, on procedures, methods and instrumentation. Though subject to the standard calculation check used for sample analysis, the appellant's technical recommendations are generally accepted as sound.

At the GS-13 level, 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. Technical problem definitions, methods, and/or data are highly incomplete, controversial or uncertain. Typically, scientists at this level represent an authoritative source of consultation for other scientists and program specialists and are called upon to perform a key role in resolving issues that significantly affect scientific programs. Others accept evaluations and recommendations as those of a technical expert.

Characteristically, GS-13 scientists represent their organizations or programs or the Government's interests, in some cases including representing the agency before public bodies on controversial projects or in high level forums. Some positions may involve planning, organizing and leading teams to prepare requirements and specifications for new, large scale systems or to evaluate overall plans and proposals for significant systems developed by contractors.

The appellant's work does not meet the GS-13 level. While work at both GS-12 and GS-13 level includes sample analyses and development of new methods, the GS-13 level is characterized by leadership, marked attainment in work assignments, controversy, and critical and novel chemical problems. While the appellant has presented his findings at a regional AOAC conference, this does not constitute the representational role intended at the GS-13 level and is not a regular or recurring event. The appellant prepared the poster presentation and helped develop a paper for presentation at a national FDA symposium, but he did not present it as the organization's representative and technical authority at a high level forum. Our fact finding did not determine that the appellant has been called upon to perform a key role in resolving issues significantly affecting scientific programs or that his technical problems are typically characterized as highly incomplete, controversial, or uncertain. The appellant is developing faster and more sensitive analytical methods, but these methods do not constitute issues, as at the GS-13 level, that significantly affect scientific programs, i.e., alter the program itself. They improve on methods currently in place. The appellant provides methods and instrumentation guidance to analysts and scientists within the organization, at other governmental agencies, and in private industry. This advisory role is consistent with the GS-12 level and is not comparable to GS-13 level authoritative guidance in resolving significant issues. The appellant does not normally lead others in project accomplishment. His overall duties and responsibilities do not demonstrate GS-13 level characteristics.

Decision

The appellant's position is properly classified as Chemist, GS-1320-12.