

U.S. Office of Personnel Management
Division for Human Capital Leadership & Merit System Accountability
Classification Appeals Program

Atlanta Field Services Group
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: Safety and Occupational Health Manager
GS-018-12

Organization: [organization]
[organization]
[organization]
Office of Human Resources Management
Customs and Border Protection
U.S. Department of Homeland Security
[location]

OPM decision: Safety and Occupational Health Manager
GS-018-12

OPM decision number: C-0018-12-05

/s/ Virginia L. Magnuson
Virginia L. Magnuson
Classification Appeals Officer

September 23, 2003
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]

Customs and Border Protection

U.S. Department of Homeland Security

[address]

[location]

Chief, Position Management and Compensation

Office of Human Resources Management

Ronald Reagan Building

Customs and Border Protection

U.S. Department of Homeland Security

1300 Pennsylvania Avenue, NW.

Washington, DC 20229

Assistant Commissioner

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Introduction

On May 9, 2003, the Atlanta Field Services Group, U.S. Office of Personnel Management (OPM), accepted a position classification appeal from [appellant]. His position is currently classified as Safety and Occupational Health Manager, GS-018-12, in the [organization], [organization], [organization], Office of Human Resources Management, Customs and Border Protection (CBP), U.S. Department of Homeland Security, [location]. The appellant requests that his position be classified at the GS-13 level. We received a complete administrative report on June 27, 2003. This appeal was accepted and processed under the provisions of section 5112(b) of title 5, United States Code.

Background

The appellant believes the knowledge, guidelines, scope and effect, and personal contacts required to meet program needs for all the activities in his serviced area requires a mastery of safety management skills greater than that required at the GS-12 level. The appellant initially filed an appeal to his agency and on November 21, 2002 the agency sustained the current classification of his position. The appellant subsequently appealed to OPM.

In May 2001, the appellant was hired as safety program manager for the South Atlantic Customs Management Center (CMC), one of 12 regions. Due to a long-term vacancy in the North Florida CMC, he is also assigned responsibility for that area and has been performing duties for both areas since hired in 2001. However, the position description is a standard description used by the agency to describe a regional assignment without any specific identification of the name or size of the assignment. The new duties are not outside the scope of normally performed duties outlined in the official position description. The change in assigned area did not result in a functional program change, nor did it require a personnel change action. It essentially impacted the volume of the work, i.e., number of ports of entry and other facilities serviced, number of contacts with organizational personnel, etc., rather than the nature of the work or level of responsibility. Volume of work cannot be considered in determining the grade of a position (*The Classifier's Handbook*, Chapter 5).

A position description is the official record of the major duties and responsibilities assigned to a position by an official with the authority to assign work. A position is the duties and responsibilities that make up the work performed by an employee. Position classification appeal regulations permit OPM to investigate or audit a position and decide an appeal on the basis of 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 position description. Therefore, this decision is based on the work currently assigned to and performed by the appellant and sets aside any previous agency decision

Telephone audits were conducted by an Atlanta Field Services Group representative with the appellant, his immediate supervisor, and his second level supervisor, the Chief of the Health Safety and Occupational Health Section in the Indianapolis Safety Office. This appeal was decided by considering the audit findings and all information of record furnished by the appellant and his agency, including the appellant's official position description.

Position information

The appellant is assigned to position description number [#]. Both the supervisor and the appellant certified the accuracy of the position description. The appellant's position description cover sheet has not yet been revised to incorporate new organizational changes for his position. U.S. Customs Service, along with other agencies, became a part of CBP, U.S. Department of Homeland Security, on March 1, 2003. Although the agencies involved are, operationally, a part of CBP, based on a working agreement, each legacy organization is providing administrative services, including safety and occupational health functions, to its own organization until October 1, 2003. According to the Chief of the Safety and Occupational Health Section, his organization would not refuse to provide services on a safety issue because of the administrative agreement. The appellant has begun coordinating with the other organizations and has provided some guidance, but his duties primarily relate to the former U.S. Customs Service assignments.

The appellant serves as the field program manager for the regional area covered by the [location] and the [location] Customs Management Centers (CMC). He plans and directs program activities for assigned geographical areas involving the following functions: 1) safety program management; 2) accident prevention and control; 3) safety education and promotion; 4) accident investigation, analysis, and reporting; 5) occupational health and sanitation; 6) radiation safety; 7) marine and aviation safety; 8) motor vehicle safety; 9) dangerous and hazardous cargo handling; 10) safety and health committee activities; 11) fire protection and prevention; 12) environmental compliance; 13) emergency preparedness; and 14) inspection of work places. Facilities within the area of assignment include a CBP laboratory, a national law enforcement center, marine center, aviation center, major ports of entry, tourist/cruise ship ports, airports, and truck, train and border crossings. The program area involves diverse and specialized hazards relating to long shoring operations, law enforcement, aircraft, marine vessels, laboratories, hazardous materials, etc. It includes industrial work processes in specialized warehousing and material handling trades in situations that include bonded alcohol operations, foreign trade zones, containerized cargo, international airports, truck docks, railroad yards, tea storage, tobacco warehousing, border stations, etc.

In performing his assigned functions, the appellant provides safety and occupational health expert technical assistance to regional agency management and organizations. He develops and directs a continuing program of periodic inspections of all assigned facilities and activities. The appellant also conducts field surveys and special studies of work operations and performs technical hazard studies involving asbestos, noise, radiation, toxic materials, vapors, dusts and other environmental health hazards. The appellant investigates and helps resolve safety and occupational health problems encompassing a wide variety of occupations in commercial type operations and in hazardous environments. He investigates, analyzes, and prepares statistical and other reports of property damage, personal injury and occupational disease. He conducts training and coordinates a safety education program and in doing so identifies needs and plans, develops or selects training materials, methods and procedures. He administers a safety management information system and serves as the emergency preparedness officer. The appellant spends approximately 30 percent of his time performing inspections and monitoring the program and the rest of the time he responds to management and client requests and issues.

The appellant's supervisor establishes overall objectives. The incumbent independently plans the program and carries out assignments, coordinating with other subject matter specialists as needed. He exercises considerable judgment and discretion in applying methods and procedures to resolve complex safety problems and keeps his supervisor apprised of activities through weekly reports. Completed work is reviewed for effectiveness in accomplishment.

The position description of record contains more information about how the position functions and we incorporate it by reference into this decision.

Series, title, and standard determination

The agency classified the appellant's position in the Safety and Occupational Health Management Series, GS-018 and titled it as Safety and Occupational Health Manager. The appellant does not contest the series or title determination and we concur. The standard for the GS-018 series is used to evaluate the position.

Grade determination

The GS-018 standard is in the Factor Evaluation System Format (FES). Under the FES, positions are evaluated by comparing the duties, responsibilities, and qualifications required with nine factors common to non-supervisory General Schedule positions. A point value is assigned to each factor in accordance with the factor-level descriptions. For each factor, the full intent of the level must be met to credit the points for that level. The total points assigned for the nine factors are converted to a grade by reference to the grade conversion table in the standard.

The appellant contests the agency evaluation of Factors 1, 3, 5, and 6. Based on our review of the record, we find that the position is properly credited with Factor Levels 2-4, 4-5, 7-3, 8-2, and 9-2. This decision will, therefore, address only the factors contested by the appellant.

Factor 1, Knowledge required

This factor measures the nature and extent of information or facts that a worker must understand to do acceptable work, such as the steps, procedures, practices, rules, policies, theories, principles, and concepts; and the nature and extent of the skills needed to apply this knowledge. The agency evaluated this factor at Level 1-7 while the appellant believes that Level 1-8 is appropriate.

At Level 1-7, the work requires knowledge of a wide range of safety and occupational health concepts, principles, practices, laws, and regulations applicable to the performance of complex administrative responsibilities which require the planning, organizing, directing, operating, and evaluation of a safety and occupational health program. Alternatively, work at this level may require a comprehensive knowledge of regulations, standards, procedures, methods, and techniques applicable to a broad range of safety and occupational health duties in one or more specific areas of safety and occupational health. In addition, the following knowledge is also required:

- Knowledge of psychological and physiological factors sufficient to evaluate the relationship of an individual to the working environment and to motivate individuals to perform in a safe manner.
- Knowledge and skill sufficient to manage a safety and occupational health program with diverse but recognized hazards, achieving compliance with regulatory provisions and effectively communicating multiple safety and occupational health practices and procedures to staff and line personnel; and to modify or significantly depart from standard techniques in devising specialized operating practices concerned with accomplishing project safety and occupational health objectives.

Work at this level includes advising key managerial and executive personnel on courses of action affecting facility operations, work processes, human-machine relationships and environmental conditions.

Level 1-7 is met. The nature of the appellant's work requires a comprehensive knowledge of established safety and occupational health concepts and practices and the skill and ability to apply those concepts and practices. He uses this knowledge in conducting periodic inspections and field surveys, investigating problems, developing guidance materials, advising regional management, and developing and conducting training. As at Level 1-7, the appellant's work requires knowledge of diverse work situations, cultural aspects, such as found in long shoring work, and specialized hazards, such as the use of radiation to inspect the unknown contents of cargo, off-gassing at airports, power cranes unloading very large loads, etc. The appellant refers to agency guidance, and national safety standards and requirements. He may contact subject matter experts. This work requires the appellant to stay abreast of new safety technology, to interpret and to modify standard or accepted techniques in devising specialized safety practices and procedures to deal with complex and changing safety conditions found at high risk sites and activities.

At Level 1-8, in addition to the knowledge and skills described at Level 1-7, the work also requires:

- Expert knowledge of safety and occupational health concepts, principles, laws, regulations, and precedent decisions which provide the capability to recommend substantive program changes or alternative new courses of managerial action requiring the extension and modification of existing safety and occupational health management techniques critical to the resolution of safety and occupational health management problems; or
- Knowledge sufficient to serve as a technical authority and make significant, far-reaching decisions or recommendations in the development, interpretation, or application of the principal agency safety and occupational health policies or critical criteria.

Level 1-8 is not met. Although the appellant researches available information, develops local guidance and procedures, and submits interim and local guidance for possible agency-wide use, he does not make the significant, far-reaching decisions or recommendations intended at this

level. Level 1-8 requires a mastery to apply theoretical approaches and new developments to problems that are of a program or policy nature and more far-reaching than a single project or situation. The appellant does not recommend substantive program or operational changes, or significantly extend or modify established techniques. The appellant's role is to interpret and apply established guidance to regional operations of a conventional and high risk nature and to assess the effectiveness of abatement measures. Although the appellant is considered to be the local expert because of his expanded knowledge, that technical knowledge alone is not sufficient to meet the full intent of Level 1-8. The difference between Level 1-7 and Level 1-8 lies in the breadth of the program responsibilities. The appellant's duties do not encompass the broad program or policy responsibilities described at Level 1-8.

Level 1-7 is credited for 1250 points.

Factor 3, Guidelines

This factor covers the nature of guidelines and the judgment needed to apply them. The agency credited Level 3-4. The appellant believes Level 3-5 should be credited.

At Level 3-4, the available guidelines tend to lack specificity for many applications, such as departmental or agency policies, recent developmental results, and findings and approaches of nationally recognized safety and occupational health organizations. These guidelines are also often insufficient to resolve highly complex or unusual work problems, such as determining the potential hazard of detonating various experimental explosive devices in a research and development environment. The safety and occupational health manager or specialist must modify and extend accepted principles and practices in the development of solutions to problems where available precedents are not directly applicable. Experienced judgment and initiative are required to evaluate new trends for policy development or for further inquiry and study leading to new methods for eliminating or controlling serious hazards to life and property.

Level 3-4 is met. The appellant's guidelines include the agency's program handbook and a broad range of published materials which include safety, occupational health and fire standards, regulations, directives, professional journals, manufacturers' catalogs, etc. The appellant must adapt these guidelines to the specific work situation he encounters, and devise approaches and measures which meet the intent of the guides. In many cases, the available guidelines are not directly applicable to the situation and require judgment on the part of the appellant in their adaptations and application. For example, the appellant prepares local and interim guidance and procedures for specific situations. In some cases, it may be incorporated into current national guidance or policy. He also reviews, assesses, coordinates, and comments on proposed policy.

At Level 3-5, work is performed chiefly under basic legislation and broad policy statements that require extensive interpretation. As a technical authority, the safety and occupational health manager develops new approaches and concepts where precedent does not exist, as well as nationwide standards, procedures, and instructions to guide operating safety occupational health personnel.

Level 3-5 is not met. The appellant has guidelines available that are more specific than basic legislation and broad policy statements. The appellant's guidelines include national standards from Occupational Health and Safety Administration (OSHA), National Institute for Occupational Safety and Health, Environmental Protection Agency and other health organizations, and agency program instructions, guidelines and policy. The position does not function under the basic legislation and broad policy statements or develop new approaches and concepts as intended at Level 3-5. These functions are vested with regulatory agencies and at other levels of the appellant's agency.

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 the work products or services both within and outside the organization. The agency evaluated this factor at Level 5-4. The appellant believes Level 5-5 is correct.

At Level 5-4, the purpose of the work is to assess the effectiveness of specific programs, projects, or functions. The safety and occupational health manager or specialist plans alternative courses of specialized action to resolve hazardous conditions and unsafe working practices. The work often involves the development of safety and occupational health criteria and procedures for major agency activities. Work products impact on (1) a wide range of agency safety and occupational health programs; or (2) safety and occupational health programs of large, private sector establishments.

Level 5-4 is met. The purpose of the appellant's work is to administer and assess a complex safety and occupational health program for his assigned geographic area. He develops actions to minimize or eliminate hazardous operations and conditions, which may increase the risk of accidents. He works closely with managers and supervisors throughout the area in interpreting established guidance to identify hazardous conditions and to provide general and localized safety measures. His work efforts result in eliminating or reducing unsafe acts and conditions and impact a wide range of safety and occupational health activities.

At Level 5-5, the purpose of the work is to resolve critical safety and occupational health problems often involving serious hazards of unpredictable consequences to humans and property. The work requires the development of new guides, approaches, and methods often under difficult circumstances such as when confronted by conflicting viewpoints and resource constraints. At this level, the safety and occupational health manager or specialist often serves as a consultant providing expert advice and guidance covering a broad range of safety and occupational health activities to officials, principal program managers and other safety and occupational health managers or specialists. The work efforts affect the activities of safety and occupational health managers and specialists both within and outside the agency.

Level 5-5 is not met. While the appellant's work may involve some critical safety and health issues, the appellant does not routinely resolve critical problems involving hazards of unpredictable consequences. Rather than developing new guides or methods to reduce or eliminate hazards, he generally adapts or develops procedures for local use based on Federal and

agency standards, regulations, and guidelines. He participates in program evaluation exercises with his peers, but does not provide expert advice and guidance to or oversee the activities of other safety and occupational health specialists or managers as required at this level, e.g., at the agency or department level or at a regulatory agency responsible for issuing standards and instructions. His work efforts result in minimizing unsafe acts and conditions, but do not affect the activities of safety and occupational health managers and specialists both within and outside the agency. Level 5-5 describes a broader program scope, e.g., the policy level, than the appellant's program responsibilities.

Level 5-4 is credited for 225 points.

Factor 6, Personal Contacts

This factor measures face-to-face contacts and telephone dialogue with persons not in the supervisory chain. The agency evaluated this factor at Level 6-3, but the appellant believes it should be Level 6-4 due to the level of his personal contacts at high levels.

At Level 6-3, personal contacts of a non-routine nature are with a variety of individuals such as managers, administrative law and Federal judges, and professionals from other agencies or outside organizations. Contacts also include individuals such as managerial representatives of privately-owned businesses, contractors and consultants, university professors, State and local government officials, representatives of professional societies and national safety associations, safety engineers, and safety and occupational health specialists from private establishments.

Level 6-3 is met. The appellant has personal contacts with individuals from both inside and outside his activity to discuss routine and non-routine issues involving safety and health issues. Persons within the agency include SES Level Directors and Principal Program Managers, counterparts in other regions and persons at headquarters and serviced areas. External contacts primarily include private business owners, community representatives, local law enforcement officers, safety program personnel at other agencies and government levels such as representatives from OSHA, Centers of Disease Control and Prevention, Federal Emergency Management Agency, General Services Administration, Federal Bureau of Investigation, etc.

At Level 6-4, personal contacts are with high ranking officials from outside the agency such as key public and corporate executives; elected representatives; and top scientific personnel of other departments and agencies, State, county, and municipal governments, private industry, national safety and health organizations, public groups, and national research organizations. Safety and occupational health managers or specialists may participate as technical experts on committees and seminars of national and international stature.

Level 6-4 is not met. The record shows that the appellant does not have regular contacts that include individuals such as those described at this level and is not recognized as a technical expert on a national and international level.

This factor is evaluated at Level 6-3, for 60 points.

Summary

<i>Factor</i>	<i>Level</i>	<i>Points</i>
1. Knowledge required by the position	1-7	1250
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	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>		2920

The total of 2920 points falls within the GS-12 range (2755 – 3150) on the grade conversion table provided in the standard.

Decision

The appealed position is properly classified as Safety and Occupational Health Manager, GS-018-12.