

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

Appellant: [Name of appellant]

Agency classification: Law Enforcement Officer
GL-1801-9

Organization: [Appellant's organization/location]
U.S. Forest Service
U.S. Department of Agriculture

OPM decision: GL-1801-9
(title at agency discretion)

OPM decision number: C-1801-09-13

//Judith A. Davis for

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

10/31/2011

Date

As provided in section 511.612 of title 5, Code of Federal Regulations, this decision constitutes a 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 the *Introduction to the Position Classification Standards (Introduction)*, appendix 4, section G (address provided in appendix 4, section H).

Decision sent to:

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Introduction

On February 9, 2011, the San Francisco Oversight Office of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [name of appellant]. On March 3, 2011, we received the complete agency administrative report (AAR). The appellant's position is currently classified as Law Enforcement Officer (LEO), GL-1801-9, but he believes the scope of his responsibilities including his program management duties warrant upgrading his position to the GL-11 level. The appellant works at the [name of appellant's organization/location], U.S. Forest Service, U.S. Department of Agriculture (USDA). We have accepted and decided this appeal under section 5112(b) of title 5, United States Code (U.S.C.).

General issues

The appellant makes various statements about the classification review process conducted by his agency, including questioning the career ladder established for his position. In adjudicating this appeal, our responsibility 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). Therefore, we have considered the appellant's statements only insofar as they are relevant to making that comparison. Because our decision sets aside any previous agency decisions, the classification practices used by the appellant's agency in classifying his position, including establishment of the position's career ladder, are not germane to the classification appeal process.

The appellant does not believe his current position description (PD) [number] is accurate, but his immediate supervisor has certified to its accuracy. A PD 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 the employee. 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 a PD. This decision is based on the work currently assigned and performed by the appellant.

Position information

The appellant's duties and responsibilities fall into three different areas: investigation of crimes, enforcement of laws, and technical specialist. The appellant's investigative work involves conducting investigations of misdemeanor crimes and felony offenses of regulatory and Federal criminal laws affecting National Forest lands, and investigations of civil and administrative matters which may result in a claim for or against the Federal Government. He may also be assigned to assist a Special Agent (GS-1811) with complex felony cases. The investigations involve matters relating to illegal activities such as timber theft, damage of Federal buildings or structures (e.g., defacing buildings or vandalizing property), and other Forest resources. As part of his investigative duties the appellant locates, secures and protects crime scenes, collects and or seizes evidence, gathers physical and documentary evidence, interviews witnesses and suspects, and prepares case reports.

The appellant's enforcement work involves detecting and enforcing criminal law concerning offenses including but not limited to timber theft, wildland arson, and matters involving violations of drug controls laws that affect National Forest lands. He accomplishes this work by monitoring and patrolling district lands, especially in areas where violations typically occur due to the type of forest resources available to the public, e.g., firewood cutting, collection of mushrooms and or berries. This enforcement work involves writing warning notices, violation notices (fines) and incident reports, as well as informing and educating the public of proper procedures and regulatory requirements when on National Forest lands.

The appellant also serves as a technical specialist for prosecution of cases in the U.S. Magistrate Court, and State and local courts. He monitors cooperative enforcement agreements with other Federal, State, county and local government entities and serves as a liaison to cooperative agencies such as local County Sheriff Departments and other Federal agencies involved in law enforcement activities related to the protection of resources, users, employees and facilities on the National Forest. He provides technical information and training in law enforcement to agency employees, and may provide assistance to outside agencies in conducting search and rescue incidents on National Forest lands as necessary.

In performing his duties, the appellant prepares procurement requests for any equipment needed. This includes researching vendors and costs (e.g., purchase of a gun sling) before submitting a purchase request. He is also in charge of property utilization and disposal, including maintaining a record of all property used to do his work and any seized evidence. He identifies excess property in need of disposal and submits reports to his supervisor regarding lost, missing, stolen, destroyed, damaged or unserviceable property. The appellant is responsible for the inspection and maintenance of all his personally assigned government owned equipment including his patrol vehicle, weapon, snowmobile, trailers and other equipment used during the course of his work. He is responsible for submitting his own travel requests on the agency's GovTrip System, preparing travel authorizations, vouchers and making individual travel arrangements. He also utilizes the Law Enforcement and Investigations Management Attainment Reporting System (LEIMARS). This is an automated Forest Service wide system for reporting violations of law and incidents, which could result in claims for or against the U.S. Government, and monitoring associated investigations. He manages the storage of government property and equipment such as Global Positioning System (GPS) units, cameras, weapons and ammunition, vehicles, trailers and office equipment. As part of his duties, the appellant attends meetings focused on information sharing and round table discussions with other individuals with law enforcement responsibilities to talk about trends, safety concerns, suspect information and other emerging issues. Furthermore, in his capacity as technical specialist he provides training and oversight related to law enforcement, criminal justice, and personal safety in an annual recertification course for Forest Protection Officers (FPO) who have program experience in timber, engineering, or fire control.

In reaching our classification decision, we have carefully reviewed all information provided by the appellant and his agency, including his official PD which we find sufficient for purposes of classification and incorporate it by reference into this decision. In addition, to help decide the appeal we conducted separate telephone interviews with the appellant and his supervisor.

Series, title, and standard determination

The agency has classified the appellant's position in the General Inspection, Investigation, Enforcement, and Compliance Series, 1801, titling it Law Enforcement Officer and the appellant does not disagree. We concur with the agency's selection of series. This series covers positions that supervise, lead, or perform inspection, investigation, enforcement, or compliance work. This series is applicable when the work of the position is covered by two or more administrative occupations in the General Inspection, Investigation, Enforcement, and Compliance Group, 1800, and no one occupation predominates; or is consistent with this occupational group but not covered by an established series in the 1800 group. There is no title specified for positions in the 1801 series. Therefore, the agency may construct a title that appropriately describes the work using the guidance contained in the *Introduction*. We note the appellant's position is assigned to the "GL" pay plan. That pay plan relates to employees covered by the General Schedule (GS) classification and pay system who (1) are law enforcement officers, and (2) receive special base rates at grades 3-10 under section 403 of the Federal Employees Pay Comparability Act of 1990 (FEPCA). Because the appellant's position meets those requirements, it is appropriately designated a GL position. The grade of positions in the 1801 series is determined by reference to the grading criteria in the Job Family Position Classification Standard (JFS) for Administrative Work in the Inspection, Investigation, Enforcement, and Compliance Group, 1800. We have applied that criteria below to the appellant's position.

The appellant believes his duties and responsibilities in procurement, property utilization and disposal, equipment and vehicle maintenance, transportation, data processing, inventory and storage, attendance at various meetings with other law enforcement individuals, and training he provides to FPOs as described above constitute "program management" duties. However, as discussed in previous OPM decisions, typical program management responsibilities include such activities as planning and scheduling work to meet program goals and general objectives established by a higher organizational echelon; developing recommendations for higher level management on the level and mix of resources (staff, money, space, and equipment) needed by the program; coordinating program activities with other staff offices and line managers to achieve mutual objectives; systematically evaluating program activities and functions to measure the effectiveness of program efforts; modifying program methods and approaches as needed; and assessing the applicability of current program objectives and recommending changes. For example, "program management" responsibilities for positions in the 1801 series could include managing the overall public safety and patrol aspects of a law enforcement program for a National Forest or Zone including developing, analyzing, and evaluating new or revised law enforcement policy statements and guidelines which often affect other National Forest systems, resource programs or activities; identifying budget needs and developing project work plans for a Forest or Zone; and managing activity costs and evaluating new techniques, methods and operational approaches for handling law enforcement and public safety functions. The record shows these "program management" responsibilities are typically required of Supervisory Law Enforcement Officers, GS-1801-12, at a single large Forest or a Zone covering several Forests. The appellant performs none of the preceding "program management" functions vis-à-vis the law enforcement program. Rather, the duties he references are simply individual tasks he does to support and carry out his principal duties as the sole LEO in his District. Therefore, we have not separately evaluated them in this decision.

Grade determination

The 1800 JFS is written in Factor Evaluation System (FES) format, which employs nine factors. Under the FES, each factor-level in a standard 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. The total points assigned are converted to a grade by use of the grade conversion table in the JFS.

The appellant disagrees with his agency's assignment of the 1800 JFS Levels 1-6, 2-3, 3-3, 4-3, 5-3, 6-2, and 7-B. He concurs with the agency's assignment of Levels 8-3 and 9-3. After careful review, we agree with the agency's assignment of factor-levels for Factors 8 and 9, and thus have not specifically addressed them in our discussion that follows. Therefore, our evaluation discusses only those factor-levels in dispute.

Factor 1, Knowledge required by the position

This factor measures the nature and extent of information or facts an employee must understand to do acceptable work (e.g., steps, procedures, practices, rules, policies, theories, principles, and concepts) and the nature and extent of the skills necessary to apply that knowledge.

At Level 1-6, the employee uses knowledge of, and skill in applying, inspection, investigation, enforcement, and/or compliance principles, concepts, and methodologies; laws, regulations, and precedent decisions; requirements of various legal jurisdictions; and practices common to industries and entities regulated by applicable programs. The acquired knowledge and skills must be sufficient to independently perform duties such as identifying significant sources of information to detect illegal activity and document issues or probable cause; conduct inspections to determine if violations have occurred; conduct investigations using accepted methodology and problem solving techniques; take statements from witnesses, third parties, and other knowledgeable persons; research, analyze, interpret, and evaluate data and information to make appropriate recommendations; and prepare reports and technical information.

At Level 1-7, the employee uses knowledge of, and skill in applying, a wide range of complex inspection, investigation, enforcement, and/or compliance principles, concepts, and practices; criminal and case law precedents; administrative and legal procedures; requirements of various legal jurisdictions; a broad range of advanced investigative techniques, research methodologies, and statistical and financial analyses; and business practices common to regulated entities and parties sufficient to perform duties such as: coordinate investigative activities with Federal, State and local enforcement officials; conduct sophisticated surveillance; ensure criminal cases are supported by evidence; develop supportable cases for presentation and/or prosecution; conduct inspections and investigations where significant difficulties are encountered; select, adapt, and apply investigation and negotiation techniques; interpret complex laws and regulations; develop new approaches, methods, or procedures in data gathering and analysis techniques; recognize and resolve discrepancies and/or inconsistencies among findings; obtain and/or reconstruct missing or withheld documents and information; overcome obstacles to gather and interpret

evidence; collect and confirm information from a variety of sources and methods, such as court records, databases, the Internet, newspapers, periodicals, and financial reports; and prescribe corrective action or remediation in difficult and complex work assignments.

The appellant's position meets Level 1-6. Like this level, the appellant uses knowledge of, and skill in applying investigation, enforcement and compliance principles, concepts, and methodologies to independently identify significant sources of information to detect illegal activity, and document issues or probable cause. For instance, when the appellant investigates crimes, he seeks and gathers information from cooperating, confidential and/or anonymous sources, and reviews investigative reports from other Federal, State and local agencies, to detect illegal activity, and documents issues to establish probable cause so a criminal investigation can be initiated. Like Level 1-6, the appellant also uses knowledge of and skill in applying inspection, enforcement and compliance laws, regulations, guidelines, and precedent decisions when conducting inspections to determine if a violation has occurred. For example, the appellant must inspect and enforce compliance in cases involving timber theft and or damage of government buildings or structures in the Forest. In cases of possible timber theft, the appellant investigates and considers whether the violation was unknowingly committed or done solely for financial gain. In deciding on a course of action, he must also determine if the alleged violator has a criminal history. Typically, timber-cutting cases do not require a substantial amount of time to investigate and the appellant completes the case by issuing a warning or a violation notice. Under certain circumstances, the appellant may have to prepare a case report to submit to the U.S. Attorney's Office (USAO), filed as information for charging.

Similar to Level 1-6, the appellant conducts investigations using accepted methodology and problem solving techniques. For example, the appellant considers the nature and severity of the crime to determine the type of criminal activity (e.g., misdemeanor or felony) and thus which method of case development applies. He is responsible for handling misdemeanor cases and when directed prepares and routes the more serious misdemeanor cases for which the agency is seeking financial restitution to the USAO for charging. The more complex felony cases are forwarded to the Assistant Special Agent-in-Charge (ASAC) at the Regional Investigative Unit (RIU) for assignment to a Special Agent, or they are returned to the appellant for further investigation under the direction of the assigned Special Agent. In cases where the appellant receives initial information that a crime has been committed through reports from other employees or the public, like Level 1-6 he applies accepted methods to prevent damage to or destruction of property, escape of a suspect, or loss of material evidence. For example, in cases involving persons reported to be cutting wood in a prohibited area but are absent when the appellant arrives onsite, he moves forward with an investigation taking the necessary actions to gather evidence that facilitates finding the suspect(s) and ultimately getting an admission statement from the individual(s). Comparable to Level 1-6, the appellant takes statements from witnesses, third parties, and other knowledgeable persons when he investigates violations and criminal offenses to enforce compliance of Forest Service laws and regulations. For example, in an outfitter/guide case involving illegal activity of a commercial guide service operating on National Forest land, the appellant conducted suspect and witness interviews and collected physical and documentary evidence to develop case information for use in prosecution.

Also like Level 1-6, the appellant researches, analyzes, interprets, and evaluates data and information to make appropriate recommendations. For instance, in cases involving the U.S. Attorney the appellant references researches the appropriate legal citations, and evaluates and interprets the investigative information he has gathered to support charging documents issued by the USAO. In addition, he may be involved in serving subpoenas, summons and other legal documents, as well as testifying during trials and hearings. Based on his knowledge of a case and having conducted the preliminary investigation, the appellant may also provide recommendations during the sentencing phase of a case. The appellant also evaluates data and information retrieved from queries using the LEIMARS database to identify incident trends and provide input to Forest Service personnel to ensure law enforcement concerns are addressed.

Like Level 1-6, the appellant prepares reports and technical information. He routinely prepares incident reports covering basic information on the nature of the offense, the persons involved, and evidence collected. He also prepares summary case reports containing preliminary findings for more complex cases that include supporting documentation and physical evidence, e.g., chain saw, hammer, tree stumps, etc. These case reports are forwarded to the RIU for review and assignment of the case, and based on the circumstances the appellant is directed to forward them to the USAO to file as information for future prosecution. Case reports composed and submitted by the appellant provide technical information on targeted suspects and other supporting information needed for pressing charges. Moreover, in his capacity as technical specialist the appellant also advises and provides technical information to the FPO's on the appropriateness of writing incident reports and violation notices for different kinds of offenses, as well as providing them with annual 8-hour law enforcement recertification training.

The appellant's position does not meet Level 1-7. Unlike this level, his work does not require knowledge of, and skill in applying, a wide range of complex inspection, investigation, enforcement, and/or compliance principles, concepts, and practices. The appellant's assignments center on detecting and investigating violations of laws, rules and regulations relating to crimes involving misdemeanors and felonies that are clearly defined such as theft, vandalism and/or fire to Federal property, as opposed to investigations where significant difficulties are encountered requiring interpretation of complex laws or regulations. Although the appellant independently handles the preliminary stages of a potentially complex investigation such as collecting physical evidence, preserving the crime scene, and initially interviewing witnesses and suspects, his work on such cases does not require that he apply a broad range of advanced investigative techniques and research methodologies characteristic of Level 1-7. Cases involving illegal activities that are more complex and obscure in nature are regularly forwarded to the RIU for review and assignment of the case to a Special Agent (GS-1811) who applies the full range of investigative knowledge and skill typical of Level 1-7 to such cases. In those instances where he occasionally assists the GS-1811 case agent on a complex case, the appellant's role is to assist by performing limited investigative tasks supporting case development.

Unlike Level 1-7, given the limited complexity of the appellant's cases he is not required to apply a broad range of advanced investigative techniques, research methodologies, and statistical and financial analyses. Instead, he uses law enforcement methods and techniques that are straightforward (e.g., basic interviewing techniques) and does not need to develop new approaches, methods or procedures in data gathering and analysis techniques. Additionally, his

case work does not require he conduct sophisticated surveillance. His personal surveillance tasks are limited to observing from his patrol vehicle or setting up a camera to capture activity at a certain location for a defined period of time. Unlike Level 1-7, his work does not require him to reconstruct missing or withheld documents and information, overcome obstacles to gather and interpret evidence, or collect and confirm information from sources such as court records, databases, the Internet, newspaper, periodicals and financial reports. The nature of the appellant's cases is such that he uses only evidence obtained from the crime scene and statements from witness and informants at the scene as well as from easily accessible records. For instance, the appellant calls a dispatcher at the NCIC (National Crime Information Center) to gather vehicle and license information he uses to identify and develop suspects in particular cases.

This factor is evaluated at Level 1-6 and 950 points are credited.

Factor 2, Supervisory controls

This factor covers the nature and extent of direct or indirect controls exercised by the supervisor or another individual over the work performed, the employee's responsibility, and the review of the work completed. The primary components of this factor are how work is assigned, employee responsibility, and how the work is reviewed.

At Level 2-3, the supervisor or designated employee makes assignments by defining objectives, priorities, and deadlines; and provides assistance on controversial or unusual situations, which have no clear precedents. The employee independently plans and carries out assignments in conformance with accepted policies and practices; and handles problems and deviations relying on instructions, previous training, and accepted procedures. In reviewing work the supervisor ensures appropriate factors have been considered, sufficient information or evidence has been gathered to support conclusions, and pertinent regulations and precedents have been applied; and reviews completed work for conformity with policy, the appropriateness of the employee's approach, technical soundness, and adherence to deadlines.

At Level 2-4, the supervisor outlines overall objectives and available resources; discusses with the employee the projects and timeframes; and determines the parameters of the employee's responsibilities. The employee determines the most appropriate avenues to pursue; decides the practices and methods to apply in all phases of assignments including the approach to take, and the depth and intensity needed; interprets policy and regulations and resolves most conflicts as they arise; coordinates projects or cases with others as necessary; and keeps the supervisor informed of progress and potentially controversial matters. The supervisor does not normally review the methods used, but reviews completed work for soundness of overall approach; effectiveness in producing results; feasibility of recommendations; and adherence to requirements.

The appellant's position meets Level 2-3. Like this level, the supervisor assigns work by defining objectives, priorities, and provides assistance on controversial or unusual situations that lack clear precedents. Although many assignments come directly to the appellant via reports from other employees, members of the public, or his personal observations, the supervisor meets

with the appellant and other LEOs at quarterly zone meetings to discuss work progress and objectives, establish or amend enforcement priorities and deadlines, and assign particular investigative projects. Like Level 2-3, the appellant independently plans and carries out his assignments in conformance with accepted policies and practices and handles problems and deviations relying on instructions, previous training, and accepted procedures. For example, in a recent wildfire the appellant used his knowledge, skill, and training in investigating forest wildfires to investigate and determine the cause and origin of the fire. Like this level, in reviewing the appellant's work the supervisor ensures appropriate enforcement factors are considered, sufficient information or evidence is gathered to support investigative conclusions and pertinent regulations and precedents are applied. Comparable to Level 2-3, the supervisor reviews completed work for conformity with policy, appropriateness of the appellant's approach, technical soundness and adherence to deadlines. For example, with the exception of routine cases (i.e., those resolved by issuing warnings or violation notices), all other case reports pertaining to more serious misdemeanor or complex cases must be fully discussed with and reviewed by the supervisor for technical soundness before sending to the ASAC or USAO for case initiation.

The position does not meet Level 2-4. Unlike this level, the supervisor provides instructions concerning the scope of projects, planning, prioritizing, and establishing deadlines. For instance, when discussing and reviewing case reports with the appellant, the supervisor provides instructions on referral and coordination procedures with the RIU and ensures completeness of the report. In contrast to Level 2-4, where the employee decides the practices and methods to apply in all phases of assignments including the approach to take, the appellant only handles the preliminary stages of complex assignments and is not involved in all phases of such investigations. Additionally, unlike Level 2-4 where work is reviewed for soundness of overall approach and feasibility of recommendations, the appellant's completed work is reviewed for appropriateness of approach and technical soundness. For instance, the supervisor reviews information the appellant enters into the LEIMARS from incident reports to ensure investigative guidelines were followed.

This factor is evaluated at Level 2-3 and 275 points are credited.

Factor 3, Guidelines

This factor covers the nature and extent of guidelines and the judgment employees need to apply them. Guidelines either provide reference data or impose certain constraints on the use of knowledge.

At Level 3-3, the employee uses a variety of guidelines, manuals, and standard reference materials; however, they are not completely applicable to the work or have gaps in specificity. The employee uses judgment in interpreting, adapting, applying, and deviating from guidelines. The employee analyzes the results of such adaptations and recommends changes in established methods and procedures.

At Level 3-4, the employee uses administrative policies and precedents, which are applicable but stated in general, terms. Guidelines for performing the work are scarce or of limited use. The

employee uses initiative and resourcefulness in deviating from established methods to address specific issues or problems; identify and research trends and patterns; develop new methods and criteria; or propose new policies and practices.

The appellant's position meets Level 3-3. Like this level, the appellant uses a variety of guidelines, manuals, and standard reference materials. For example, the appellant performs law enforcement work in accordance with guidelines, policies and procedures stated in the Forest Service Handbook (FSH) section 5309, which specifically relates to law enforcement and investigation procedures. This handbook is the source of specialized guidance and instruction on how to carry out directives. The appellant also refers to policies in the Forest Service Manual (FSM) for the [name of appellant's region] for policies covering protection and case development including planning, investigation, report procedures and cooperative law enforcement. In his capacity as a Wildland Fire Investigator, the appellant refers to the FSH 5109.31-Wildfire Origin and Cause Determination Handbook, a publication of the National Wildfire Coordinating Group (NWCG) used by the Forest Service for direction on wildfire investigative procedures. Like Level 3-3, these guidelines have gaps in specificity because of the variety of circumstances found in working different types of cases. For example, in cases involving loss or damage of Federal property, the appellant must determine which procedures are the most appropriate for the violation in order to impose recovery costs. In these types of cases, the appellant must first obtain an assessment on the value of the resource from a Forest timber cruiser before he can apply the proper procedures and route the case to the appropriate authority.

Like Level 3-3, the appellant exercises judgment and officer discretion in interpreting, adapting, applying, and deviating from guidelines. For example, the appellant exercises judgment when deciding what type of action to initiate when handling misdemeanor violations requiring issuing a verbal or written warning, a violation notice, or potentially making a physical arrest for offenses that violate Forest Service regulations. He may use his discretion if in his opinion and in the absence of contrary policy, educating or warning the violator is likely to assure future compliance. Moreover, if a case goes beyond the scope of his authority and responsibility it must be referred for prosecution based on local protocols. For example, if personal property is stolen from a member of the public while in the Forest, based on his determination on the applicability of guidelines the appellant must determine whether the incident should be referred to the local County Sheriff Department for completion of the case. In investigations involving willful cutting or theft of timber or high resource damage values, the appellant uses judgment in applying relevant guidelines to decide whether the violation should be referred to the USAO for prosecutorial determination. Furthermore, in cases where the appellant feels endangered he may deviate from guidelines by using officer discretion to decide if an arrest of suspects can be made onsite.

The position does not meet Level 3-4. Unlike this level, the appellant's guidelines for performing his work are not scarce or of limited use and he is not required to use initiative and resourcefulness to significantly deviate from established methods to develop new methods and criteria. By design, LE&I management imposes distinctions between investigative cases conducted by LEOs and those employees whose positions are classified as Criminal Investigator, GS-1811. In the appellant's case, he conducts preliminary investigations to establish the credibility of information or allegations with his findings documented in the form of a case

report. His work does not extend beyond collecting information at the initial crime scene or recording initial allegations of criminal activity requiring him to use judgment in interpreting, adapting and applying established methods and procedures. The nature of his position and the limited extent of his investigations do not permit him to deviate from established methods to develop new methods and criteria, or propose new policies and practices as described at Level 3-4.

This factor is evaluated at Level 3-3 and 275 points are credited.

Factor 4, Complexity

This factor covers the nature, number, variety and intricacy of tasks, steps, processes or methods of the work performed; the difficulty in identifying what needs to be done; and the difficulty and originality involved in performing the work. The primary components of this factor are: Nature of Assignment, What Needs To Be Done, and Difficulty and Originality Involved.

At Level 4-3, the work consists of a number of different and unrelated processes to determine the nature and extent of compliance, noncompliance, or illegal activity. The employee analyzes and evaluates issues, conditions, and/or problems related to the assignment; selects and applies appropriate legal and regulatory guidelines and a variety of standard techniques and procedures; and decides on a course of action based on an analysis of the subject and issues involved. The employee exercises versatility, judgment, and perception to understand interrelations among different strategies, activities, and laws or requirements.

At Level 4-4, the work consists of a variety of assignments involving many different and unrelated procedures to resolve situations and problems. The employee analyzes data from a variety of sources, considering the impact, interrelationship, and complex patterns; confirms the accuracy and authenticity of information, and resolves issues of contradictory, missing, or inconclusive data; or resolves unusually complex jurisdictional issues through extensive coordination efforts. The employee exercises judgment in planning and prioritizing the sequence, direction, and progress of work. The employee must evaluate and interpret information from various sources and vary the approach to each assignment by adapting established practices and precedents.

The position meets Level 4-3. Like this level, the appellant's work consists of a number of different and unrelated processes and methods to determine the nature and extent of compliance, noncompliance, or illegal activity. The appellant conducts patrols and investigations to detect or apprehend individuals suspected of committing theft, vandalism, or causing fires in the Forest. Depending on the type of case, the appellant applies different processes to determine the nature and extent of the illegal activity. For example, in fire violations the appellant must apply origin and cause determination processes to locate the site where the fire started and determine the source of ignition. The appellant also coordinates enforcement planning activities with other Forest specialists in the areas of recreation, timber, fire, range and planning, and works with enforcement officers from other Federal and State agencies (e.g., National Park Service and [name of State] Division of Natural Resources) to enforce activities that involve the protection of resources, users, employees and facilities on National Forest lands. To do this work he must

have knowledge of the various law enforcement processes of these units so he can assist in patrolling areas and detecting violations. In cases of timber theft, he must first determine whether the violation was committed with intent to make profit, or unknowingly to collect firewood. He then applies the appropriate process to assess the extent of illegal activity and takes the proper enforcement action, or refers the case to another authority.

Like Level 4-3, the appellant analyzes and evaluates issues, conditions, and/or problems related to his investigations. For example, in cases involving cutting trees without a permit, the appellant must determine if the criminal activity is a misdemeanor or a felony by evaluating the severity of the infraction and extent of damage. In general, if damage exceeds \$1,000 the offense constitutes a felony that meets case opening guidelines for forwarding to the RIU for assignment of the case. Similar to Level 4-3, the appellant selects and applies appropriate legal and regulatory guidelines and a variety of standard techniques and procedures to decide what type of action to initiate when handling misdemeanor violations pursuant to Title 36, Code of Federal Regulations (CFR), Pats 242 and 261. Additionally, he applies standard techniques and procedures when receiving initial information that a crime has been committed and proceeds to investigate the case.

Like Level 4-3, the appellant decides on a course of action based on an analysis of the subject and issues involved. For example, in his investigative work he analyzes all surrounding circumstances to determine if a violation of law has occurred and what legal action should be taken. For instance, in fire cases he determines the cause and origin of the fire to assess the nature and extent of noncompliance, e.g., repetitive or first time offense. In cases involving theft of timber he uses background information on the alleged violator to support issuing a warning or violation notice. In cases where theft of property occurs in the Forest, the appellant must determine the appropriate authority to handle the case. For example, if something is stolen from a member of the public while on Forest Service land the appellant contacts the local Sheriff's Department to perform the investigation. However, if a forest product is stolen (e.g., timber for firewood), the appellant is responsible for investigating the offense. Comparable to Level 4-3, the appellant exercises versatility, judgment, and perception to understand interrelationships among different strategies, activities, and laws or requirements. In doing so he applies officer discretion to guide his determinations on the appropriate enforcement action to take including simply educating or warning a violator if he believes this approach is likely to result in future compliance by the individual.

The position does not meet Level 4-4. Unlike this level, the appellant's duties do not require him to analyze data from a variety of sources, considering the impact, interrelationships, and complex patterns. Because the law enforcement activities and investigations performed by the appellant are limited and less complex than those envisioned at Level 4-4, his cases typically do not involve controversial issues and the interrelation of facts is readily apparent. As previously discussed, the appellant's duties primarily focus on immediate enforcement actions through issuing violation notices or performing initial investigations. Unlike Level 4-4 where the employee confirms the accuracy and authenticity of information, and resolves issues of contradictory, missing or inconclusive data, the appellant's work involves exchanging factual information from readily accessible records and documents because his cases generally encompass only one or a few compliance issues. In contrast to Level 4-4, the technical problems

he deals with involve conducting only preliminary investigations, or determining whether to issue a warning or violation notice when infractions occur. For complex cases the appellant prepares a case report which, according to Forest Service policy, must be routed through his supervisor to the RIU for review. The RIU then determines if the complexity of the case warrants direct assignment to a Special Agent (GS-1811), or if the appellant can work the more straight forward issues in the case with oversight by the Special Agent or the immediate supervisor.

This factor is evaluated at Level 4-3 and 150 are credited.

Factor 5, Scope and effect

This factor covers the relationships between the nature of work (i.e., the purpose, breadth, and depth of the assignment) and the effect of work products or services both within and outside the organization.

At Level 5-3, the scope of work involves independently conducting and completing typical inspections, investigations, enforcement activities, or compliance evaluations. This includes responsibilities for resolving a variety of conventional problems and situations by applying known solutions. Work contributes to the effective administration and/or enforcement of pertinent laws and regulations and to the prevention and detection of illegal or unsafe activities.

At Level 5-4, the scope of the work involves planning and conducting multi-agency, multi-state, or international studies, reviews, or investigations; developing operational criteria, plans, and bulletins; or investigating or analyzing a variety of unusual situations. Work efforts result in disruption of large-scale organized illegal activity and/or result in changes to business practices or procedures that promote health, safety or fair treatment of a large group or whole class of people. Work may also result in improved planning and operational aspects of agency programs.

The appellant's position meets Level 5-3. Like this level, his work involves independently conducting and completing typical inspections, investigations and enforcement activities relating to resources, property, employees and Forest users. In doing so, he resolves a variety of conventional problems and situations by applying known solutions. For example, he enforces regulations and investigates less complex violations involving Forest resources and property. Such cases present conventional problems where he is able to apply typical investigative methods for collecting information, determining the cause and origin of the infraction, preserving physical evidence, and taking statements regarding the violation of alleged criminal activity. In resolving cases, he applies known solutions such as issuing warning and violation notices, and writing supporting incident reports forwarded to higher authority for review and additional investigative effort by Special Agents.

Like Level 5-3, the appellant's work contributes to the effective enforcement of resource protection and development laws and regulations and the prevention and detection of illegal or unsafe activities such as theft, fire, vandalism, and vehicle trespass on Forest Service lands. To do so he plans and conducts patrols to prevent, detect and enforce violations of Federal laws and regulations on National Forest lands, and fosters compliance by educating the public on

applicable rules and regulations. In addition, he coordinates enforcement planning activities with other Forest Service units and Federal and State agencies to ensure patrols and enforcement efforts are performed as specified in their operating agreements.

The appellant's position does not meet Level 5-4. Unlike this level, he is not required to plan and conduct multi-agency, multi-state, or international studies, reviews, or investigations. Such activities are performed by higher-level investigative employees in the Forest Service, frequently in coordination with personnel from other agencies. Although the appellant states he assisted a Special Agent who was involved in a multi-agency marijuana eradication investigation, his supporting investigative tasks were assigned solely for developmental purposes and the record shows he does not perform such investigations on a regular basis. Unlike Level 5-4, the appellant's work does not result in the disruption of large-scale organized illegal activity and/or results in changes to business practices or procedures that promote the health, safety or fair treatment of a large group or whole class of people.

This factor is evaluated at Level 5-3 and 150 points are credited.

Factors 6 and 7, Personal Contacts and Purpose of Contacts

These factors include face-to-face and remote dialogue (e.g., telephone, e-mail, and video conferences) with persons not in the supervisory chain. Levels described under these factors consider what is required to make the initial contact, the difficulty of communicating with those contacted, the setting in which the contact takes place, and the nature of the discourse. The setting describes how well the employee and those contacted recognize their relative roles and authorities. The nature of the discourse defines the reason for the communication and the context or environment in which the communication takes place. The JFS notes the same contacts are evaluated for both Factors 6 and 7. Point value for these factors is obtained by applying the Point Assignment Chart in the JFS.

Personal Contacts

At Level 2, contacts are with agency employees at various levels within the agency and members of the general public, such as individuals or groups, in a moderately structured setting. Contacts are usually made at the employee's work place. The employee must explain the reason for the contact and the role and legal authority to the participants.

At Level 3, contacts are with individuals or groups from outside the agency in moderately unstructured settings, on a non-routine basis. The extent of each contact is different. Typical contacts at this level are with investigators from other agencies, district attorneys, witnesses, informants, complainants, public interest groups, and the news media.

The position meets Level 2 but does not fully meet Level 3. Like Level 2 the appellant meets with employees at various levels within his agency (e.g., District and Forest staff), and with members of the general public to explain his role and legal authority in a moderately structured setting. In addition, similar to Level 3 the appellant also has contact with individuals from outside his agency, particularly with witnesses and informants. However, unlike Level 3 these

contacts are generally made on a routine basis in a moderately structured setting where the role and authority of the person contacted is initially known prior to meeting, and the purpose and extent of each contact is generally the same, i.e., to gather statements and discuss and enforce compliance of law enforcement rules and regulations. Consequently, because Level 3 is not fully met, Level 2 is assigned for this factor.

Purpose of Contacts

At Level B, the purpose of contacts is to plan, coordinate, or advise on work efforts or to resolve operating problems by influencing or persuading individuals or groups who are working toward mutual goals and who have basically cooperative attitudes.

At Level C, the purpose of the contacts is to influence, persuade, or control people or groups. The people contacted may be fearful, skeptical, uncooperative or dangerous. Therefore, the employee must be skillful in approaching the individual or group to obtain the desired effect, such as gaining compliance with established policies and regulations by persuasion or negotiation, or gaining information by establishing rapport with a suspicious informant.

The purpose of the appellant's contacts meets Level B. Like this level, his contacts are made to plan, coordinate or advise on work efforts and resolve operating law enforcement problems by influencing individuals or groups (e.g., members of the public or Forest staff) who are working towards mutual goals and have basically cooperative attitudes.

The position does not meet Level C. Unlike this level, in making contacts to resolve operating problems the appellant does not need to influence, persuade, or control people or groups who may be skeptical or uncooperative. Although when investigating crimes he meets with a variety of individuals, due to the nature of his cases those contacted are generally cooperative so he does not have to use persuasion or negotiation to gain compliance with established policies and regulations.

By application of the Point Assignment Chart in the JFS, a combination of Level 2 for Factor 6 and Level B for Factor 7 results in a total of 75 points assigned.

Summary

<i>Factor</i>	<i>Level</i>	<i>Points</i>
1. Knowledge Required by the Position	1-6	950
2. Supervisory Controls	2-3	275
3. Guidelines	3-3	275
4. Complexity	4-3	150
5. Scope and Effect	5-3	150
6.& 7 Personal Contacts/Purpose of Contacts	6-2/7-B	75
8. Physical Demands	8-3	50
9. Work Environment	9-3	<u>50</u>

Total

1975

A total of 1975 points falls within the GS-9 range (1855-2100) on the grade conversion table in the JFS. Therefore, the appellant's position is graded at the GS-9 level.

Decision

The proper series and grade of the appellant's position is GL-1801-9. Selection of an appropriate title is at the discretion of the agency.