

GENERAL DESCRIPTION OF CLASS

The ENVIRONMENTAL LAW SPECIALIST assesses enforcement case referrals from department staff and pursues formal enforcement actions, including settlement negotiations and lay representation, against violators of statutes, rules, and permits in all programs regulated by the department.

DISTINGUISHING FEATURES

This is a single classification not currently part of a series of classes. The ongoing application of legal analysis to technical environmental issues distinguish this class from the Natural Resources Specialist series.

DUTIES AND RESPONSIBILITIES

The duties listed below are not inclusive but characteristic of the type and level of work associated with the class. Individual positions may do all or some combination of the duties listed below as well as other related duties.

1. Case Evaluation

Assesses enforcement case referrals across all program lines. Decides if adequate evidence and information is available to support a formal enforcement action. Analyzes evidence to insure it supports the legal elements of applicable statutes, regulations or permit conditions. Follows-up on or identifies additional case leads or cross program violations for investigation.

Reviews and evaluates case documents and interviews witnesses. As needed, follows up with the staff analyst or investigator to gather needed information if evidentiary or legal enforceability flaws exist. Participates in field investigations as necessary. Assesses legal enforceability and factual evidence. Advises management to settle or drop case when warranted.

Evaluates case with similar past cases to assure consistency of formal enforcement actions. Evaluates violator response to formal enforcement action and recommends to management whether case should be prosecuted, settled, or withdrawn. Recommends whether documented environmental violations warrant criminal prosecution; helps coordinate criminal referrals. For unprecedented cases, researches facts and law and recommends how to proceed to management.

For civil cases, as the department's principal representative, coordinates the oversight of complex enforcement cases (including settlement negotiations, contested case hearings and appeals). Applies the department's penalty determination process to decide appropriate penalty. Considers case facts, evidence, magnitude or seriousness of the violation, and any aggravating or mitigating factors in making decision. Writes letters, formal enforcement actions, civil penalty assessment notices and orders necessary to execute the enforcement strategy.

2. Settlement

For contested cases where settlement is an option, discusses and negotiates settlement with violator or attorney. Evaluates case facts and recommends settlement to management. Also evaluates settlement offers from violators or attorneys and advises management whether offers should be accepted or rejected. Drafts formal settlement documents (e.g., settlement agreement, consent order and memo analyzing information pertinent to the settlement) for formal approval.

3. Contested Cases

Prepares contested cases for hearing. Refines case materials and evidence including assimilating new facts or evidence turned up after the initial investigation or formal enforcement action began. Develops case strategy, arranges for subpoenas, organizes witness testimony and exhibits. Represents the department in contested case hearings including presenting the department's prima facie case on the record and examining and cross-examining witnesses. Presents evidence, applies facts to law, compares prior agency actions, argues the literal meaning of rules and statutes, and argues the admissibility of evidence and the correctness of procedures. Also represents the department on appeals of Hearings Officer decisions to the Commission.

When referred, prepares and summarizes case files of contested cases for the Department of Justice. Assists Department of Justice attorney in preparing referred cases for hearing.

4. Miscellaneous Duties

Advises department staff of the applicability of rules or statutes to fact specific enforcement situations. Helps them develop an investigation strategy. Recommends enforcement procedures and rules and advises department staff on the interpretation of the department's enforcement procedures and rules. Recommends program rule changes to correct enforcement weaknesses. Drafts amendments to the department's enforcement rules. Prepares and presents staff reports for hearing authorization and final rule adoption.

Trains department staff on how to prepare a complete enforcement case referral (e.g., proper documentation of violations, what constitutes evidence and the types of evidence, and the interpretation and application of the department's enforcement procedures and rules). Trains department staff on administrative search procedures, criminal law elements (for a criminal enforcement referral), and penalty mitigation/supplemental environmental project procedures.

RELATIONSHIPS WITH OTHERS

The Environmental Law Specialist has regular telephone, personal, and written contact with all levels of department staff to seek additional information, discuss cases and advise on the applicability of rules and procedures, and review proposed civil penalty actions and orders. The employee has regular contact with violators or their attorneys to answer questions, seek information, discuss violations, negotiate and develop consent orders, and discuss settlements. The employee has periodic contact with the public and city, county, State, and Federal agency staff to exchange information or to coordinate enforcement activity. The employee has periodic contact with department of Justice attorneys to discuss referred enforcement cases and contested case hearing preparation.

SUPERVISION RECEIVED

The Environmental Law Specialist works under general supervision and completes all phases of a formal enforcement independently. The supervisor assigns requests for formal enforcement actions received from program or regional staff. As needed, the employee seeks supervisory review of draft documents, and reports on work progress and priorities. The employee also seeks guidance as needed to clarify expected results, confirm interpretation of regulations and policies, and their applicability to complicated regulatory situations.

The Environmental Law Specialist applies administrative rules and procedures and State and Federal laws to establish the legal framework for formal enforcement actions and for carrying them through contested case hearings or settlements. Relevant journals, articles and prior enforcement actions also guide the Environmental Law Specialist.

KNOWLEDGE AND SKILLS (KS)

General knowledge of legal concepts, principles, terminology, and standards, including the rules of evidence and standards of proof.

General knowledge of the administrative law process.

General knowledge of applicable laws, policies, procedures, and regulations of the regulated activity.

Basic knowledge of legal research and investigation techniques.

Skill in analyzing and interpreting laws, rules, and regulations and applying them to specific circumstances.

Skill in obtaining, organizing, analyzing, and evaluating information from a variety of sources related to the elements of a legal action.

Skill in writing clearly and concisely.

Skill in dealing with diverse groups of people to resolve complex issues.

Skill in representing the agency in meetings, at hearings, and during negotiating sessions.

Skill in training staff on enforcement and investigation procedures and advising on non-routine investigations.

NOTE: The KNOWLEDGE and SKILLS are required for initial consideration. Some duties performed by positions in this class may require different KS's. No attempt is made to describe every KS required for **all** positions in this class. Additional KS requirements will be explained on the recruiting announcement.

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STATE OF OREGON

Dept. of Administrative Services

Human Resource Services Division