

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

Chicago Oversight Division
230 South Dearborn Street, DPN 30-6
Chicago, Illinois 60604

**Classification Appeal Decision
Under Section 5112 of Title 5, United States Code**

Appellant: [Appellant's name]

Agency Classification: Geologist, GS-1350-12

Organization: Department of Agriculture
Forest Service
[Name] Region - Region [#]
[Name] National Forest
Natural Resources
[City, State]

OPM decision: Geologist, GS-1350-12

OPM decision number: C-1350-12-01

/s/

Frederick J. Boland
Classification Appeals Officer

August 7, 1998

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's name and address]

[name and address of appellant's servicing
personnel office]

Mr. Roger L. Bensey
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Introduction

The appellant contests his agency's decision in classifying his position, Number 09094712, as Geologist, GS-1350-12. The position is located in the Natural Resources Group on the [Name] National Forest, [Name] Region - Region [#]. The appellant feels that he should be given higher credit for the performance of duties involving hardrock and common variety minerals, which were previously performed, along with other duties, by a GS-13 in the Forest Service's [Name] Regional Office. He agrees that the official position description accurately reflects his major duties.

The appellant also believes that his position is similar to unidentified higher graded positions located in unnamed Forest Service regional offices. The appellant's work is not compared to other positions since such comparisons are not legitimate classification methods. The U.S. Office of Personnel Management (OPM) is required by law to classify positions on the basis of their duties, responsibilities, and qualification requirements by comparison to the criteria specified in the appropriate classification standard or guide. Other methods of evaluation are not permitted. Agencies are, however, required to apply classification standards and OPM decisions consistently to ensure equal pay for equal work. OPM will require an agency to conduct a consistency review upon showing that specifically identified positions at different grades have identical duties. Accordingly, our letter transmitting this decision to the agency advises that it respond to this issue, should the appellant specifically identify a similar position.

Position Information

The appellant is one of about ten employees that make up the Natural Resources Group, which is headed by the Natural Resources Team Leader, a Program Manager, GS-340-13. The team includes one each GS-12 Wildlife Biologist, Soil Scientist, Geologist, Hydrologist, Forest Planner, and Land Surveyor; one each GS-11 Fisheries Biologist, Resource Specialist, and Geographic Information System Program Manager; and a GS-6 Business Management Assistant. The Natural Resources Group develops plans for services and goods to be provided on the [Name] National Forest and develops specialized information regarding forest resources for use by managers in making decisions about the forest. The appellant's position includes primary duties performed in support of the [Name] National Forest, to which he is assigned, and duties performed in support of the [Name] and [Name] National Forests' minerals resources and geology programs. These primary duties account for most of the appellant's time. The rest of his time is spent in support of the [Name] Region's land and minerals program, specifically related to hardrock and common variety minerals.

The appellant's primary duties support the [Name], [Name], and [Name] National Forests and include:

- making mineral character determinations;
- providing advice and guidance on the management and utilization of minerals and geologic resources;

- assessing the impact of proposed leasing actions and insuring such actions reflect Forest Service standards and guidelines;
- developing geologic models in support of studies; and,
- establishing and maintaining working relationships with peers within the Forest Service, in state and local agencies, the general public, and clients who manage mineral and/or geologic resources within the forest's boundaries.

The appellant's secondary duties support the [Name] Region's land and minerals program and include:

- working with the Regional Lands and Minerals Program Leader and other [Name] Region Geologists to develop regional minerals program objectives and priorities, specifically in the hardrock and common variety minerals program;
- providing technical advice, coordinating with other regional staff, National Forests, and other Federal and state agencies;
- representing the [Name] Region with Federal, state and local government agencies, other regions, the mineral industry, conservation groups and the general public;
- planning, designing and implementing hardrock and common variety minerals programs, projects and studies; and,
- monitoring plans for hardrock and common variety minerals resources, developing standards and guidelines as needed.

These secondary duties, among others, were previously performed by a GS-13 Geologist assigned to the [Name] Regional Office. They were incorporated into the appellant's position by memorandum dated December 29, 1994, with common variety minerals added in 1995. The many other duties previously performed by the GS-13 Geologist included responsibility for oil and gas, geology, budget, and the geographic information system. These duties were split between two GS-12 Geologists located on other forests.

The purpose of the appellant's secondary duties is to assure that the exploration and development of hardrock and common variety minerals are compatible with other resource values and comply with all laws and policies. These responsibilities are exercised throughout the [Name] Region, which includes 20 States and 15 National Forests.

Analysis and Findings

Series and Title Determination

The Geologist, GS-1350, series, covers professional scientific positions, like the appellant's, requiring a knowledge of the principles and theories of geology and related sciences in the collection, measurement, analysis, evaluation, and interpretation of geologic information

concerning the structure, composition, and history of the earth. The prescribed title for non-supervisory positions in this series, such as the appellant's, is *Geologist*.

Grade Determination

The OPM Job Family Standard for Professional Physical Science Work, dated December 1997, provides grading criteria for nonsupervisory professional positions in the physical sciences, including the GS-1350 series. The criteria in the standard further define the grade levels found in title 5, Chapter 51 of the United States Code. Positions are graded as a whole against the criteria found at differing grades in the standard. Positions are classified to the grade that best represents the overall demands of the work, e.g., its knowledge requirements, complexity, scope and effect, responsibility, etc.

Work demanding less than a substantial (at least 25 percent) amount of time is not considered in classifying a position. Similarly, developmental assignments or acting, temporary, and other responsibilities that are not regular and continuing are not considered in classifying positions. (Temporary assignments of sufficient duration, though, are sometimes recognized in accordance with agency discretion by temporary promotion if higher graded duties are involved, by formal detail, or by performance awards.)

The appellant believes that higher credit is warranted because of his secondary duties. In support of his claim, the appellant said:

- These are not just duties performed over a regional area . . . these are duties performed at the Regional Level of the Forest Service. They were assigned by the Regional Office (see letter of agreement dated 11/29/94) and are financed by the Regional Office.
- The regional programs that I am responsibility for produces over 175 million dollars in minerals, and over \$7,000,000 dollars in royalties to the National Treasury annually. And, that's only for the Federal minerals, the administration of Federal surface over private minerals is equally as large and complex of a program.
- We [the three team members] "share" responsibility for areas of the program that are not specifically assigned to one of us, but I have authority for the hardrock and common variety minerals programs. There are no higher level technical experts in the Region in our program areas. The next higher level of technical expertise is at the Washington level.
- I am the highest level technical expert in hardrock and common variety minerals in Region - [#].
- There are no higher technical experts in my areas of responsibilities in Region - [#].

The appellant's position may not be classified based on the collective effort of teams on which he is a member. It may only be credited for the work he personally performs. His duties may also not be credited beyond the actual scope of his assigned segment (hardrock and common variety minerals), even though they once were performed as part of a position that had broader geologic program responsibilities. Indeed, as program responsibilities narrow, a corresponding increase in the complexity of work is expected in order to demonstrate an equivalent level of knowledge.

Dollar value is sometimes used as a criterion for determining work assignments or to establish thresholds for requiring higher level management reviews. Typically it is not included in classification standards as a grade evaluation criterion since it is subject to inflationary trends and other variances that make it unsuitable for directly determining the scope, responsibility, complexity, or difficulty of the work. Instead, the more pertinent criteria expressed in the standards provide a more direct measure of such features. In the appellant's case, the dollar value of mineral production or royalties has a tenuous relationship to the difficulty and complexity of his assignments. The GS-1300 job family standard provides criteria that more directly assess these two aspects of the work and deliberately avoids the use of dollar amounts.

The appellant provided three examples he believes demonstrate the difficulty of his work.

- As Regional hardrock geologist, I participated in a Washington Office - Regional Office review of the hardrock minerals program on the [Name] National Forest. Other Federal and State agencies and private industry also participated. The review covered many aspects of the minerals program but of particular concern was the extension of prospecting into a sensitive watershed that feeds springs within an adjacent National Park. Of course, the Park service is very concerned about potential contaminating of the ground water. They contend our NEPA document for the permit applications needs to address the impacts of mining. The Forest Service contends that only the impacts associated with exploration need to be addressed, if we include a stipulation in the prospecting permit reserving the right to decide if and under what conditions mining might occur - "the second consent principle".
- The [Name] National Forest received several Bureau of Land Management prospecting permit applications for diamonds. These applications were reviewed by the Washington and District offices of BLM and by our Regional Office adjudicators before being sent to the Forest. It was not until I became involved, in my regional role, that it was discovered the applications included lands for which no mineral disposal authority existed. These lands had been withdrawn from mineral entry since 1873 - not common knowledge. I had the task of diplomatically informing the company and BLM of the error and providing another mechanism for the company to do their exploration. Had I not been performing my regional role, the Forest would have proceeded with an environmental analysis probably leading to issuing of the permits by BLM, and the company would have explored and drilled for minerals that cannot be legally extracted! Not only did this save direct cost for ever one involved but also potential law suites.
- When the regional geologists recognized the need for training in the administration of common variety minerals, they solicited the National Minerals Training Center to sponsor it. The center agreed, but didn't have a course ready, so we had to work with them to design one and did a lot of the instructing ourselves. The course was hosted in [Name] and the emphases was on administration of common variety minerals in R-[#] and R-[#]. It consisted of 1.5 days of formal class room instruction and 1.5 days of field exercises. It was attended by students from throughout the Forest Service and WO staff. Judging from their response and that from the national training center faculty, it was a big success. In fact, the basic course will be adopted by the training center and presented in R-[#] next year. We will probably go along as instructors. Developing this course filled a big void in both regional and national minerals training.

The appellant describes his participation on projects led by staff of other offices. While the projects encompass a wide variety of geologic conditions and, in some instances, problems associated with geotechnical or geophysical issues, the team leader for each project bore the responsibility for resolving the difficulties that arose due to the variety of geologic conditions and

geotechnical or geophysical issues. The appellant, as a team member, provided support to the project specifically related to his hardrock and common variety minerals expertise.

The appellant is already credited at the GS-12 level with addressing scientific problems for which guidelines or precedents are not substantially applicable and making technical recommendations normally accepted without review. Unlike GS-13 grade level work, the projects he cites did not require him to resolve unusually complex technical issues having significant effect on agency programs. For example, a GS-13 illustration in the standard describes the resolution of major conflicts between geologic, economic, and management requirements and coordination with land owners, tribes, the public, industry, and state agencies. While the appellant describes frequent contact with the public, industry, and state agencies, he does not typically resolve major conflicts among opposing requirements. Instead, he was called upon to develop solutions that satisfied geologic, management, and legal requirements involving hardrock and common variety minerals, that set no agency precedents nor established new criteria.

Positions at the GS-13 grade level regularly resolve highly complex problems resulting in significant changes to methods and procedures used or to agency policies and programs. Typically they provide authoritative advice to highly experienced scientists in the same field as their own concerning such problems. In contrast, the appellant cites examples where he has dealt with problems lacking the significance and impact expected at the GS-13 level. Neither his secondary or primary duties significantly exceed the GS-12 level criteria in the standard, which fully credit him with the extensive modification and adaptation of standard geologic procedures, methods, and techniques to resolve technical problems. Together, they comport with the GS-12 illustrations in the standard, where, e.g., like the appellant, GS-12 scientists work on inter- and intra- agency committees to develop or revise standards, provide staff advisory, consulting, and reviewing services, and serve as technical authorities.

The appellant notes the possibly grave impact of failing to perform his duties; however, the standard credits only properly performed work and does not consider the consequences of error. He also notes the importance of providing training to others and his role in preparing and delivering instruction to others outside his region. Developing and maintaining workforce skills is a common responsibility given to experienced employees. By itself, it has no particular impact with respect to determining the grade level of a position and must be assessed against the criteria given in the classification standard. In the appellant's case, it too fails to meet the GS-13 level requirements, since it did not involve his personally resolving unusually complex technical issues having significant impact on the agency's natural resource program.

Decision

Based on the foregoing discussion, we find that the duties and responsibilities of the appellant's position are best represented by the GS-12 grade level. The proper classification of the appellant's position is Geologist, GS-1350-12.