

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

San Francisco Oversight Division  
120 Howard Street, Room 760  
San Francisco, CA 94105-0001

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

**Appellant:** [The appellant]

**Agency classification:** Mining Engineer  
GS-880-13

**Organization:** [Appellant's organization/location]  
Bureau of Land Management  
Department of the Interior

**OPM decision:** Mining Engineer  
GS-880-13

**OPM decision number:** C-0880-13-01

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Carlos A. Torrico  
Classification Appeals Officer

January 23, 2003

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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:**

[Appellant's address]

**Agency:**

[Appellant's servicing human resources office]  
Bureau of Land Management  
U.S. Department of the Interior

Director, National Human Resources  
Management Center  
Bureau of Land Management  
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## **Introduction**

On September 10, 2002, the San Francisco Oversight Division of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [the appellant]. On October 23, 2002, the division received the agency's administrative report concerning the appeal. The appellant's position is currently classified as Mining Engineer, GS-880-13. However, he believes it should be graded at the GS-14 level in either the Mining Engineering Series, GS-880, or the Geology Series, GS-1350. His position is located in the [appellant's organization/location], Bureau of Land Management (BLM), Department of the Interior (DOI). We have accepted and decided his appeal under section 5112 of title 5 United States Code (U.S.C.).

This decision is based on a thorough review of all information submitted by the appellant and his agency. In addition, an OPM representative conducted separate telephone interviews with the appellant and his supervisor, the Chief of the [appellant's organization], to gather more information about the position. Both the appellant and his supervisor have certified to the accuracy of the appellant's official position description (PD) [number].

## **General issues**

The appellant makes various statements about his working conditions, his agency, and its evaluation of his position. In adjudicating this appeal, our only concern is to make our own independent decision on the proper classification of his position. By law, we must make that decision solely by comparing his current duties and responsibilities to OPM standards and guidelines (5 U.S.C. 5106, 5107, and 5112). Therefore, we have considered the appellant's statements only insofar as they are relevant to making that comparison.

The appellant believes that the position classification standard for the Mining Engineering Series, GS-880, is outdated. However, the adequacy of grade-level criteria in OPM standards is not appealable (section 511.607 of title 5, Code of Federal Regulations).

The appellant contends that his position should be classified at the GS-14 level and cites several factors that he believes support his contention. He cites his reputation and experience gained through many years of experience in his field. He describes his leadership roles in developing recommendations for consideration by the central office of BLM regarding national policy development and realty action mineral reports. The appellant has prepared various issue papers for or at the request of the national office and made reports and oral presentations. In the appeal, he provided examples of new techniques or procedures he has developed or modified from previously existing techniques and procedures. In this decision we have considered those work products.

The appellant refers to his personal qualifications, including his academic training and his work experience, which include both geology and engineering, and believes his position should be classified to either series GS-1350 or GS-880 at the highest grade for which he *qualifies*. Qualifications are considered in classifying positions. However, these are qualifications required to perform current duties and responsibilities, not qualifications that appellants personally possess. Therefore, we could not consider the appellant's personal qualifications, except insofar as they are required to perform his current duties and responsibilities. To the extent that they are

needed for this purpose, we carefully considered them along with all other information furnished by the appellant and his agency.

### **Position information**

The appellant is on the staff of the [appellant's organization]. The Branch is the principal advisory and operational body to the Deputy State Director for [unit designation] regarding statewide fluid and solid mineral program policies, objectives, and accomplishments. The Branch provides leadership and support services to the District and Field Offices and, on occasion, to the Washington Office.

The appellant furnishes technical expertise, on-the-job training, and technical consultation in sensitive, complex and/or controversial aspects of the solid mineral program, with special emphasis on economic evaluation, mining law, and mineral appraisal. His work is both advisory and operational. He personally handles the most difficult and sensitive cases involving claim validity, mineral patent examinations, common variety determinations, mineral appraisals for exchange, royalty rate determination, and mineral trespass. For similar cases, he coordinates and reviews the efforts of other BLM staff. The appellant serves as an expert government witness in adverse action proceedings, and any resulting court actions concerning the nature and authenticity of mineral examinations, for patent or validity determinations, and mineral character of lands.

The appellant performs on-site mineral studies, including sampling, mapping, grade and tonnage calculations, and economic feasibility studies. He provides technical advice, training, and professional development to BLM minerals staff as well as staff of other DOI Bureaus through field training during mineral examinations and laboratory training during sample processing, mineralogical analysis, and determination of underground and surface gold and nonmetallic minerals on placer examinations. He provides technical and analytical guidance to minerals staff in other states and to staff from other agencies.

The appellant develops and/or updates written guidelines, standards, instructions and other publications for statewide and regional use and for consideration for nationwide application, pertaining to accomplishment of the solid mineral program objectives and operations, and as aids for professional development of mineral staffs. He develops and prepares guidelines for field sampling, sample preparation, and analysis, including development of new or modified techniques and procedures. He develops and maintains standards for fair market value determinations of mineral properties. He provides technical review and coordinates revisions on validity, patent, and appraisal mineral reports. In order to provide current, relevant, state-of-the-art-in-industry advice and information, the appellant maintains close contacts with colleagues in the Bureau, other Bureaus and public agencies, and in the private sector, including the mining industry. He visits operating placer, lode, and nonmetallic mines, mills, processing and manufacturing plants, and equipment suppliers to keep up to date with mining, milling, and processing techniques, as well as marketing and transportation trends and costs.

The results of our interviews, the appellant's PD, and other material of record provide more information about the appellant's duties and responsibilities and how they are performed.

### **Series, title, guide, and standard determination**

The Bureau has classified the position to the Mining Engineering Series, GS-880. We agree with the Bureau's series determination, as the appellant's duties and responsibilities primarily require the knowledge and skill needed in GS-880 positions and favorably compare to the examples of the types of professional engineering work provided in the standard for the Mining Engineering Series, GS-880.

The Mining Engineering Series, GS-880, includes positions like the appellant's that require the ability to apply the principles of mathematics, chemistry, geology, physics, and professional engineering to mining technology. The work requires a general knowledge of construction and excavation methods, materials handling, and the processes involved in preparing mined materials for use. The position classification standard for the Mining Engineering Series, GS-880, notes that mining engineers in the Federal service are primarily concerned with the following: (1) discovery and efficient extraction from the earth of metallic ores, nonmetallic minerals, and solid fuels; (2) the development, improvement, and use of safe, efficient, non-wasteful mining methods and equipment; the conservation of our Nation's mineral and natural resources; and (3) the health and safety of mine workers and the public. Like GS-880 positions, the appellant's work requires knowledge concerned with the search for and efficient removal and transportation of ore to the point of use and the conservation and development of mineral lands, materials, and deposits.

The standard describes several types of overlapping/intermingled activities engaged in by mining engineers. These activities are categorized as advisory-regulatory, resources development, and research. As described in the standard under advisory-regulatory activities, the appellant is engaged in administering laws regulating mining and the leasing of public and acquired lands containing mineral deposits. The appellant serves technical multiagency needs in a wide area of responsibility. He performs mining law duties. He is a Certified Mining Examiner handling very difficult and sensitive cases. Like the examples of work described as advisory-regulatory, the appellant's duties and responsibilities include examining lands to determine their mineral character for classification purposes. He investigates mining claims to determine if they meet the requirements of mining law. The appellant appraises or coordinates appraisals of mineral deposits, mining claims, and mineral lands to determine their fair market value. He investigates lease applications and reviews and revises accompanying mining plans. The appellant presents factual data and expert opinions at hearings and legal proceedings on the validity of mining claims, the character of land, the value of mineral deposits, mine health and safety issues, etc. He also prepares comprehensive technical reports containing study findings and recommendations.

Similar to the examples provided in the standard for mining engineers engaged in resources development activities, the appellant investigates and gathers data regarding the production, movement, and demand for mineral raw materials. He also conducts mineral resources studies within designated geographic areas to determine the number, size, grade, fair-market value, and costs of exploitation of mineral deposits. The appellant is involved with investigating conflicts in land-use involving mineral deposits and assessing the economic impact and increased costs incurred through loss of such deposits. He also prepares comprehensive technical reports containing findings and recommendations.

Examples of research activities listed in the GS-880 standard include ground control, i.e., controlling or stabilizing the voids created through removal of minerals. Though his intent is not pure research *per se*, the appellant conducts public safety and geologic engineering studies, makes special reports on active fault zones where development is planned, and makes special studies of public areas that have ground control or slope stability problems. The studies result in recommendations for mitigation, control, and building site placements.

While a background in geology is helpful in performing the appellant's duties, the paramount knowledge and skills required are those of professional mining engineering. Therefore, it is inappropriate to assign the position to the Geology Series, GS-1350. The approved title for nonsupervisory positions classified in the GS-880 series is Mining Engineer.

The position classification standard for the Mining Engineering Series, GS-880, provides grade level criteria through GS-12. Because of the appellant's role as a technical expert in mining engineering and in the solid mineral program, the Bureau concluded that his work exceeded the GS-12 level, and we concur. The standard notes that nonsupervisory mining engineer positions beyond GS-12 may be evaluated, depending on the duties assigned, by reference to the Research Grade-Evaluation Guide (RGEG), the Valuation Engineering Grade-Evaluation Guide (VEGEG), the General Grade Evaluation Guide for Nonsupervisory Professional Engineering Positions, GS-800, or by extension of criteria in the GS-880 standard. We find that the grade of the appellant's work is best evaluated by reference to the criteria in the General Grade Evaluation Guide for Nonsupervisory Professional Engineering Positions, GS-800, hereafter referred to as the guide.

### **Grade determination**

The grade-level criteria in the guide are presented in terms of three broad types of nonsupervisory work performed by engineers. As explained in the guide, the three types overlap to some extent so that many positions, especially those at the higher grades, involve combinations of the three types. Type I work is conventional in nature and is accomplished primarily by application of, modification of, adaptation of, or compromise with standard guides, precedents, methods, and techniques. Type II work includes assignments or functions with such objectives as solving novel and unusual problems, extending the boundaries of existing knowledge, or improving the state of the art, e.g., developing new and novel requirements, criteria, or standards to be used in Type I work. In some instances engineers performing Type I duties may find that conventional methods cannot be modified or adapted to the ends of the work to be accomplished. They then may have to perform Type II work to arrive at basically new ways to perform Type I work, in which case grade-level criteria for Type II work would be applied in evaluating such duties and responsibilities. Type III work involves staff assignments as technical consultants and advisors and/or program coordinator-reviewers in engineering organizations engaged in Type I and/or Type II work. These engineers exercise judgment, based on extensive experience, in providing guidance to engineers in the same specialty fields. Based on our fact-finding, we have determined that the appellant is primarily engaged in Type III work.

The guide uses two factors to evaluate the grade of professional engineering positions at different grade levels under the three types of work: (1) Nature of assignment, and (2) Level of responsibility. Our evaluation by application of the guide follows.

### *Nature of assignment*

As discussed in the guide, Type III work at the GS-13 level entails performing staff advisory, consulting, and reviewing services as a specialist in a technical field to an organization performing a variety of Type I and/or Type II assignments of GS-12 difficulty. Like the GS-13 level, the appellant provides technical review, guidance, and, in some cases, operational expertise to an organization performing a variety of Types I and II assignments at the GS-12 level of difficulty. He personally handles the most difficult and sensitive cases involving claim validity, mineral patent examinations, common variety determinations, and mineral appraisals for exchange, royalty rate determination, and mineral trespass. For other similar cases, he coordinates and reviews the efforts of other BLM staff. The guide explains that some GS-13 Type III positions are located in the central engineering office of an agency or bureau with responsibilities for reviewing and coordinating all field work in a narrow program area and proposing additional work in light of the needs of the agency or bureau. The appellant, although not centrally located, performs similar functions within the State and, in some cases, regionally, with respect to his specialty.

At the GS-14 level, assignments for engineers engaged in Type III work could consist of any of the following categories:

- (1) The engineers are expert consultants in a specialty field to a large laboratory, bureau, or agency in which the organization served is engaged in work of an advanced nature. GS-14 engineers advise on, review and conceive of new work to be undertaken by the organization. As a recurring duty, they represent their organization on technical committees developing general plans and procedures for carrying out research and experimental projects. The nature of the appellant's assignments does not match this category of work. While he does serve as an expert consultant, we found no indication that his organization is engaged in work of an advanced nature. He is not engaged in advising the entire Bureau or agency and is not involved in committees developing general plans for research or experimental projects.
- (2) For an agency or bureau headquarters and field offices, the engineers coordinate and review broad programs containing a large amount of Type I and/or Type II work at the GS-11 and 12 levels being undertaken at numerous locations under diverse conditions. GS-14 engineers in such positions develop standard methods and procedures to be used throughout the headquarters and the field, review work to avoid duplication and to assure consistency with agency policy, furnish technical and administrative advice as requested by the field, and conduct periodic visits to the field to provide on-site advice and review. The appellant's position is located in one field office of the Bureau. While he may be called upon to participate as a team member to develop recommendations for national standards and guidance, he is not responsible for developing methods and procedures for use at Bureau headquarters and field offices, for the review of field work, or for provision of advice and assistance to field installations.
- (3) They develop short- and long-range research and development plans and programs for a large group of research, development, and test activities, developing and correlating research objectives. Engineers engaged in these types of assignments originate new concepts, methods, and techniques for research planning, program guidance and evaluation, technological forecasting, and resource allocation. The appellant does not work for this type of organization and does not develop and correlate research objectives.

(4) The engineer works directly for and serves as overall engineering and scientific advisor and consultant to the chief of a research, development, and evaluation organization. In these types of assignments, the engineering or scientific programs, projects, or investigations undertaken by the organization constitute all, or the major phases, of the technical work in the specific engineering or scientific area, or closely related areas, being done in the agency or Bureau and require a variety of GS-13 level Type II engineering and scientific work. The GS-14 engineer may conduct studies to determine promising areas of investigation and to explore the impact of scientific or engineering breakthroughs on the organization's programs. The appellant's work does not match these assignments, nor does he work for a research, development, and evaluation organization.

Based on the preceding analysis, we evaluate the nature of the appellant's assignments at the GS-13 level.

#### *Level of responsibility*

At the GS-13 level, engineers engaged in Type III work receive little or no technical guidance within the specialty area. Supervisors and others accept authoritative determinations not in conflict with policies and basic standards. Supervisors of GS-13 engineers usually recognize and accept their proposals for new or additional work as those of an authority in the specialty area. GS-13 level engineers concerned with coordinating and reviewing program functions apply a thorough and comprehensive knowledge of the policies, laws, regulations, procedures, and methods of such programs. They exercise originality in developing and establishing standards, procedures, and instructions necessary to guide field offices and other organizations in carrying out program functions. GS-13 engineers have contact with engineers in field offices. Their contacts involve negotiation and persuasion in obtaining the adoption of technical points and methods that are in conflict with the desires and opinions of other engineers.

GS-14 level engineers doing Type III work operate under administrative supervision only. Guidance from higher levels is restricted to matters of broad policy, program objectives, and budget limitations. Decisions, commitments, and conclusions ordinarily have considerable influence on the development of the agency program and the establishment of standards and guides for extensive engineering activities. As representatives of their agency, GS-14 engineers reach these kinds of agreements with groups from other agencies or organizations. Their recommendations and decisions are almost universally accepted as technically sound. Technical specialists at the GS-14 level are largely concerned with solving major problems for which guidelines provide little or no assistance. As coordinator-reviewers they apply a broader knowledge of agency policies, laws, regulations, procedures, and methods than those at the GS-13 level. They exercise originality in anticipating major problems, recognizing future program needs, and developing policies as well as standards, procedures, and instructions to guide operating personnel. The extensive scope or complicated nature of the programs or technical problems upon which GS-14 engineers coordinate, advise, or review necessitates extensive contacts with key officials and top engineering and scientific personnel of the same or other establishments, other government agencies, and private industry. Program reviewer-coordinators frequently represent their agencies in conferences with other agencies, State and local authorities, private industry, and public groups in efforts to obtain all viewpoints regarding proposed programs and to assure concerted action by all parties involved. Technical specialists represent



their agencies in technical planning and standards committees and seminars of national or even international importance.

The appellant's position meets the GS-13 level in that the appellant receives little to no technical guidance relating to the solid mineral program. In some aspects of his specialty, for example placer mining, mineral appraisals, and economic mineral evaluations, the appellant is recognized as the expert. He is the definitive source of information, advice, and guidance pertaining to the solid mineral program within [name of state] and, in some cases, on a broader regional basis. Like GS-13 engineers, he develops and/or updates written guidelines, standards, instructions, and other publications for statewide and sometimes regional use pertaining to accomplishment of the solid mineral program objectives and operations, and as an aid for professional development of minerals staffs. He develops and prepares guidelines for field sampling, sample preparation, and analysis, including development of new or modified techniques and procedures. He develops and maintains standards for fair market value determinations of mineral properties.

The appellant's level of responsibility does not fully meet the GS-14 level. While he works under general supervision with considerable independence, participates in national technical meetings, and his contacts and their purpose are similar to those described at the higher level, he is not in a position to significantly influence the development of agency or Bureau-wide (i.e., DOI, BLM) standards and guides for extensive engineering activities. As a technical specialist for the [name of state] State Office, his primary focus is on state-wide matters, rather than on agency or Bureau-wide future program needs, or developing at the headquarters level standards, procedures, and instructions to guide operating personnel in the Bureau's field offices. While some of the higher level aspects are met, careful reading of the guide and other OPM guidelines indicate that for a person's level of responsibility to truly meet the higher level criteria, the employee's responsibilities should be exercised within the context of higher level (in this case GS-14) assignments. As discussed under the first classification factor, the appellant's assignments are graded at the GS-13 level.

### *Summary*

By application of the two grading factors in the guide, we find that the nature of the appellant's assignments and level of responsibility meet the GS-13 grade level.

### **Decision**

The appellant's position is properly classified as Mining Engineer, GS-880-13.