

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



Dallas Oversight Division
1100 Commerce Street, Room 4C22
Dallas, TX 75242

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

Appellant: [appellant's name]

Agency classification: Legal Instruments Examiner
GS-963-7

Organization: [appellant's activity]
Bureau of Land Management
Department of the Interior
[city, state]

OPM decision: Legal Instruments Examiner
GS-963-8

OPM decision number: C-0963-08-01

/s/ Bonnie J. Brandon

Bonnie J. Brandon
Classification Appeals Officer

11/21/97

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. This certificate must be implemented no earlier than the date of this decision and no later than the beginning of the fourth pay period following the date of the decision.

The servicing personnel office must submit a compliance report containing both a position description that reflects the corrected classification and documentation, such as an SF-50, that indicates the action taken with respect to the appellant. The compliance report must be submitted to this office no later than 30 days from the effective date of the personnel action.

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]

[servicing personnel office]

Director of Personnel
U.S. Department of the Interior
Washington, DC 20240

Introduction

On August 4, 1997, the Dallas Oversight Division of the U.S. Office of Personnel Management received a classification appeal for [the appellant] forwarded by the Department of the Interior. The appellant's position is currently classified as Legal Instruments Examiner, GS-963-7. However, [the appellant] believes its classification should be Land Law Examiner, GS-965-9. [The appellant] works in the [activity], Bureau of Land Management (BLM), [geographic location]. We have accepted and decided her appeal under section 5112 of title 5, United States Code.

In reaching our classification decision, we have carefully reviewed all information furnished by the appellant and [the appellant's] agency, including [the] official position description (PD) [number]. Both the appellant and [the appellant's] supervisor certified to the accuracy of the PD.

Position information

The position is the focal point for the oil and gas program in the [appellant's activity]. The [appellant's activity] has administrative responsibility for approximately 956,000 acres of public surface and mineral estates and 300,000 acres of private mineral estates. It operates with a staff of 23 that include several one-of-a-kind positions, e.g., engineer, geologist, archeologist, biologist, legal instruments examiner.

Because the [appellant's activity] is in an exploratory area, oil and gas leases, unit and communitization agreements (CA's) (including participating areas (PA's)), partial assignments, segregation, expirations, and relinquishments are numerous, e.g., more than 200 applications in FY 1996, and can be very complicated. The appellant works independently to adjudicate all oil and gas-related applications, documents, and reports and to ensure that oil and gas operators properly report production for royalty collections by the Minerals Management Service. The appellant must ensure that each application complies with the regulations under which it is administered. To accomplish this, [the appellant] must develop facts and evidence; determine the need for rights-of-way, special environmental stipulations, and easements; and coordinate actions with [the activity] professionals and other Federal agencies to ensure that all authorizations contain the proper conditions for approval. The appellant must interpret unedited and uncoded source documents and determine whether particular wells will be reported under a lease, unit, CA, or PA agreement. This requires [the appellant] to understand downhole production equipment and geological horizons. [The appellant] is responsible for determining first and last production; entering production information in the Automated Lands and Mineral Records System, a system used by the Bureau of Land Management, State oil and gas commissions, and the Minerals Management Service; and recommending appropriate action on bond terminations to the State Oil and Gas Commission.

Series, title, and standard determination

The appellant believes [the] position meets exclusions three and four of the GS-963 Legal Instruments Examining Series and, therefore, should not be assigned to that series. We find that

exclusions three and four do apply to the duties the appellant performs and that the position is appropriately classified in the GS-963 series.

Exclusion three removes from coverage positions that examine, adjudicate, adjust, or reconsider claims for entitlements or other similar actions. The appellant's position does not involve working with claims. [The appellant] deals exclusively in working with oil and gas applications. Black's Law Dictionary distinguishes between the terms "claims" and "applications." According to Black's, claims are demands for one's rights, e.g., rights to interests or to proceeds. Applications involve acts of making requests for something, e.g., petitions. Thus, it is clear that exclusion three is not applicable to the appellant's position. Exclusion four eliminates from coverage positions that involve analyzing legal decisions; compiling substantive information on legal subjects; and collecting, analyzing, and evaluating evidence in connection with litigation or advisory services. These positions are classified in the Paralegal Specialist series. The appellant researches decisions of the Interior Board for Lands Appeals from time to time, but this is neither the type of work envisioned by the exclusion nor the paramount purpose of [the appellant's] position. According to the appellant's PD, the purpose of [the] position is two-fold: to provide adjudication expertise for all oil and gas-related applications and to ensure that oil and gas operators correctly report production. Therefore, the appellant's position is appropriately assigned to the GS-963 series.

The appellant believes [the] position meets the definition for inclusions in the Land Law Examining Series, GS-065. However, the definition for the GS-965 series supports our determination that it is not the correct series for classifying the appellant's position. The major activity embraced by the GS-965 series is the adjudication of rights of individuals with respect to their interest in public lands and resources. If duties do not include performing work in processing, adjudicating, and advising on applications and claims for rights of individuals under various public land laws, positions are not appropriately classified in the GS-965 series.

The title for positions classified in the GS-963 series is Legal Instruments Examiner. The agency may add parenthetical titles that identify a particular specialty, e.g., (Applications) or (Bonds), if it feels further distinctions are necessary.

Grade determination

The Legal Instruments Examiner classification standard uses the Factor Evaluation System (FES), which employs nine evaluation factors. Under the FES, each factor level description 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. Conversely, the position may exceed those criteria in some aspects and still not be credited at a higher level.

The appellant believes that the agency did not properly evaluate the complexity and diversity of [the] position. [The appellant] states in [the] appeal that myriad duties and responsibilities were not fully considered by the agency in making its grade determination; for example, the

complexities involved in determining how a well operator is to report, i.e., a well with multiple geological formation drillings requires multiple reportings in order for royalties to be collected correctly; the level of responsibility required for making bond determinations. In [the appellant's] comments about the agency's evaluation of [the appellant's] position, the appellant disagrees with three factor-level determinations made under the GS-963 series: Factor 1, Knowledge Required by the Position; Factor 2, Supervisory Controls; and Factor 4, Complexity. Thus, our decision focuses on the correctness of these three factors in determining the proper grade level of the appellant's position.

Factor 1, Knowledge Required by the Position

The knowledges required by the appellant's position are fully equivalent to level 1-5, situation A. The appellant's position provides adjudication expertise for all oil and gas-related applications, documents, and reports within the Resource Area and ensures that well operators correctly determine and report production so that correct royalties are submitted to the Minerals Management Service. To fulfill the requirements of this position requires interpretation of lease, unit, PA and CA agreements and an understanding of the geological formations upon which these agreements are based. Also required is a knowledge of land surveying terminology, the ability to read, comprehend, and apply legal land descriptions, and skill in accurately determining surface and subsurface mineral ownership status from quad maps, master title plats, and oil and gas plats. The appellant must possess a thorough working knowledge of the realty and mineral processes between BLM organizational levels and other Federal, State, and local agencies, e.g., U.S. Forest Service, [state] State Oil and Gas Commission. The appellant interprets State, Bureau, and Forest Service policy, standards, and procedures which apply to approving Applications for Permit to Drill (APD's) and sundry notices. In connection with last production verifications, the appellant is responsible for understanding bond requirements and determining whether bond terminations should be authorized. The position meets level 1-5, situation A, in that it substantially develops and evaluates the situations behind the documentation submitted; performs extensive searches of records and reference materials; and compares complex criteria. The knowledge required of the appellant enables [the appellant] to deal with situations that involve varying conditions, circumstances, and alternatives and to arrive at decisions or recommendations that are specifically tailored to individual cases.

Factor level 1-4 does not describe the level of knowledge required by the appellant's position in that, typically at level 1-4, information and facts are straight-forward and need little development; require limited searches of reference materials; and entail comparisons with explicit criteria. Factor level 5, Situation B, also does not apply to the appellant's position because it covers work that requires a breadth of different regulatory and procedural knowledge, similar in depth to that described at level 1-4, to examine more than one type of legal instrument and supporting documents. The appellant's position deals with one type of subject-matter, oil and gas.

Factor 2, Supervisory Controls

Although the appellant works independently and is relied upon by [the] supervisor for technical expertise and the ability to adjudicate all oil and gas applications and related documents without review, *per se*, the position is not delegated responsibility to take final disposition without being subject to any further technical review. To be evaluated at level 2-4, such delegation is required. For this reason, the proper factor level is 2-3.

Factor 4, Complexity

Factor level 4-3 describes the complexity of the appellant's duties and responsibilities. Legal instruments adjudicated by the appellant are standardized with respect to format but not with respect to function and content. APD's and, particularly, sundry notices are used for a multitude of purposes and actions. Supporting documents often originate from outside the agency in the form of legal documents or other forms of evidence. If the instruments and documents the appellant receives contain conditions or conflicting information that might preclude approval, s[the appellant] must decide on the appropriate disposition. The appellant's supervisor relies on [the appellant] to carry out such actions. Facts may be difficult to establish and it might be necessary for [the appellant] to obtain verification from external sources.

At factor level 4-2, supporting documents give direct, firsthand evidence and are usually considered as conclusively establishing the point in question. Legal instruments are standardized and forms are used only for one primary purpose or action. Based on all information provided, the appellant's position exceeds factor level 4-2 and meets level 4-3.

Summary

In sum, we have evaluated the appellant's position as follows:

Factor	Level	Points
1. Knowledge required by the position	<i>1-5</i>	<i>750</i>
2. Supervisory controls	<i>2-3</i>	<i>275</i>
3. Guidelines	<i>3-3</i>	<i>275</i>
4. Complexity	<i>4-3</i>	<i>150</i>
5. Scope and effect	<i>5-3</i>	<i>150</i>
6 & 7. Personal contacts & Purpose of contacts	<i>2-b</i>	<i>75</i>
8. Physical demands	<i>8-1</i>	<i>5</i>
9. Work environment	<i>9-1</i>	<i>5</i>
<i>Total points:</i>		<i>1685</i>

The appellant's position is evaluated at 1685 total points. Therefore, in accordance with the grade conversion table on page 5 of the standard, her position is properly graded at GS-8.

Decision

The appellant's position is properly classified as Legal Instruments Examiner, GS-963-8.