

B-49



STATE OF NEW JERSEY

In the Matter of Rosa Yoo,  
Department of Environmental  
Protection

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2014-3178

Classification Appeal

ISSUED: APR 07 2015 (JET)

Rosa Yoo appeals the attached decision of the former Division of Classification and Personnel Management (CPM)<sup>1</sup> that the proper classification of her position with the Department of Environmental Protection is Assistant Regional Forester. The appellant seeks a Regional Forester classification.

The record in the present matter establishes that the appellant is currently serving as an Assistant Regional Forester. The Assistant Regional Forester title is assigned a class code of 22 and is classified as a "P," or professional level title. The appellant's position is located in the Division of Parks and Forestry, State Forestry Service, Bureau of Forest Management. CPM noted that the appellant does not have any supervisory duties. The appellant sought a reclassification contending that her position would be more appropriately classified as a Regional Forester which is assigned class code 25 and is classified as an "R" title. In support of her request, the appellant submitted a Position Classification Questionnaire (PCQ) detailing the different duties she performs as an Assistant Regional Forester. CPM reviewed all documentation supplied by the appellant including the PCQ. Based on its review of the information provided, including the unit organization chart, CPM concluded that the appellant's position would be properly classified as an Assistant Regional Forester.

On appeal, the appellant maintains that Regional Forester is the appropriate classification of her position. Specifically, the appellant asserts that

<sup>1</sup> Now the Division of Agency Services.

the duties listed on her PCQ are consistent with the definition and examples of work section listed in the job specification for Regional Forester. Further, the appellant explains that she is the sole person in charge of a statewide forestry program where she is responsible for supervising work projects and ensuring that various assignments are completed. She adds that she supervises any assistance that she receives from regional offices, foresters, volunteers, and contractors for the duration of their projects. The appellant avers that she is the only individual who is assigned to perform such work and operate the State Forest Health Program. Moreover, her duties are not typical for an Assistant Regional Forester. In this regard, she reports to work in Trenton<sup>2</sup> and she handles various assignments throughout the State.

Additionally, the appellant explains that the job specification for Regional Forester does not indicate that supervision of employees, including preparation of employee evaluations, is a requirement of the position. She adds that such information is only listed in the examples of work section of the job specification. In this regard, the examples of work section indicates that incumbents are responsible for managing the work operations and/or functional programs and have responsibility for employee evaluations and for effectively recommending the hiring, firing, promoting, demoting and/or disciplining of employees. In addition, the appellant acknowledges that she does not prepare employee evaluations for any employees. She also maintains that she supervises work because she authorizes and reviews various projects. Moreover, the appellant maintains that she possesses three years of professional and/or technical experience in silvicultural, forest management, and/or reforestation work, ten years of experience in the Forest Service, and more than one year of experience in program planning, implementation, and supervision.

In support, the appellant submits a letter from her supervisor, Donald Swaysland, Chief, Bureau of Forest Management, who indicates that the appellant is currently performing duties that are consistent with the job specification for Regional Forester. He explains that the appellant is currently "acting" as the authority in the field of forestry by supervising the Forest Health Program. Further, the appellant provides expert and technical advice to the Director, State Forestry Services, and to the Chief, Bureau of Forest Management, regarding Forest Health matters. Moreover, Swaysland asserts that the appellant also provides expert and technical advice to members of the public, other DEP program units, and stakeholders for matters related to forest health.

In response, CPM maintains that the classification determination is correct and the appropriate classification for the appellant's position is Assistant Regional Forester. Moreover, CPM asserts that the appellant's position cannot be classified

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<sup>2</sup> The appellant indicates that she does not work for a regional office or supervise any regional employees.

as a Regional Forester since her responsibilities do not include supervisory duties and completing employee evaluations.

### CONCLUSION

The definition section of the job specification for Regional Forester states:

Under the direction of a Supervising Forester, or other higher level supervisory officer in the Bureau of Forest Management, Division of Parks and Forestry, Department of Environmental Protection, either (a) supervises the implementation of forest management programs on State-owned forestland and is responsible for efforts which influence policies, programs, and retention of privately-owned forestland; or (b) acts as an authority in the scientific field of forestry by contributing to major problem-solving and supervision of forestry assistance programs and provides expert, technical advice to forestry supervisory personnel, the public and/or wood-using industries; does related work as required.

The definition section of the job specification for Assistant Regional Forester states:

Under general supervision of a Regional Forester or other supervisory official in the Department of Environmental Protection, plans and implements and/or may assist in the oversight of forestry programs which include contract monitoring in an assigned region of the State, provides professional advice to forestry personnel, industrial organizations, and residents of the State; may serve as field authority in the scientific discipline of forestry; provides professional forestry reviews, planning, and recommendations for forestry programs within an assigned region or central office; does related work as required.

A review of the record clearly shows that CPM appropriately found that the proper classification of the appellant's position is Assistant Regional Forester. On appeal, the appellant argues that she is in charge of a statewide forestry program where she supervises work projects and ensures that various assignments are completed. It is clear that the appellant is not performing supervisory duties. Clearly, the definition section of the job specification for Regional Forester requires an incumbent to either supervise the implementation of management programs on State-owned forestland or is responsible for the supervision of forestry assistance programs. In this regard, supervisory responsibilities are defined in the

appropriate job specifications as supervising work operations and/or functional programs and having responsibility for employee evaluation and for effectively recommending the hiring, firing, promoting, demoting, and/or disciplining of employees. A title whose job specification does not contain this clause or a reasonable variation thereof in the "Examples of Work" section is not considered a supervisory title. *See In the Matter of Sadie Hamer, et al.* (MSB, decided February 22, 2006). In this case, the job specification for Regional Forester clearly indicates that incumbents are responsible for managing the working operations and/or functional programs and have responsibility for employee evaluations. Thus, even if the appellant is the sole person in charge of a statewide program, such information does not establish that she was performing supervisory duties as she does not conduct employee evaluations.

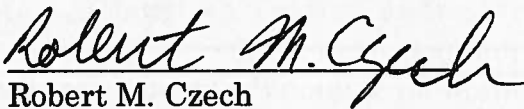
With respect to the appellant's supervisor's assertion that the appellant is performing duties of a Regional Forester, a classification appeal cannot be based solely on a comparison to the duties of another position, *especially if that position is misclassified.* *See, In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995). Additionally, the fact that some of an employee's assigned duties may compare favorably with some examples of work found in a given job specification is not determinative for classification purposes, since, by nature, examples of work are utilized for illustrative purposes only. Further, it is not uncommon for an employee to perform some duties which are above or below the level of work which is ordinarily performed. For purposes of determining the appropriate level within a given class, and for overall job specification purposes, the definition portion of the job specification is appropriately utilized. Accordingly, there is no basis to disturb the determination of CPM that the appellant's position was properly classified as an Assistant Regional Forester.

### ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 1<sup>st</sup> DAY OF APRIL, 2015



Robert M. Czech  
Chairperson  
Civil Service Commission

**Inquiries  
and  
Correspondence**

**Henry Maurer  
Director  
Division of Appeals  
& Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312**

**Attachment**

**c: Rosa Yoo  
Deni Gaskill  
Kenneth Connolly  
Joseph Gambino**



Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT  
P.O. Box 313  
Trenton, New Jersey 08625-0313

Robert M. Czech  
Chair/Chief Executive Officer

May 21, 2014

Ms. Rosa Yoo  
[REDACTED]  
[REDACTED]

Re: Classification Appeal  
Assistant Regional Forester  
Position # 094864  
CPM # 09130344  
Employee ID # 000361682

Dear Ms. Yoo:

This is to inform you, and the Department of Environmental Protection, of our determination concerning the classification appeal referenced above. You requested that your position be audited to determine if you are performing out-of-title work for your title of Assistant Regional Forester (02653, P22). You have indicated that you believe your current work duties are equivalent to those of a Regional Forester (02654, R25) title. The Bureau of Human Resources Operations agreed that an audit should be conducted in order to determine the appropriate classification of your position.

This office has conducted a review of the submitted information, including the Position Classification Questionnaire (DPF-44S); organization chart; your Performance Assessment Review (PAR) form; your statements; and the statements of your supervisor, division director, and appointing authority.

**Organization:**

The position is located in Division of Parks and Forestry, State Forestry Service, Bureau of Forest Management. You are supervised by Donald Swaysland, Chief, Bureau of Forest Management (15741, M31). No have no supervisory responsibility.

**Findings of Fact:**

- Develops and plans forest health survey and monitoring activities for forest pests including Hemlock Woolly Adelgid (HWA), Emerald Ash Borer (EAB), Gypsy Moth, Sirex Woodwasp, Bacterial Leaf Scorch, Thousand Canker Disease, and others as they arise.
- Conducts survey methods including trapping or field observations to detect the presence or absence of forest pests on public land, and private lands if time permits. Coordinates with regional forestry offices, NJ Department of Agriculture, United States Department of Agriculture (USDA) Forest Service, and USDA Animal and Plant Health Inspection Services (APHIS) for assistance in surveying and monitoring activities when needed.
- Determines treatment action required to effectively suppress, control, eradicate, or manage a specific forest pest. This can include chemical, mechanical, biological, or manual methods.
- Prepares and submits internal Lands Management Activity Review Form for proposed treatment activities to ensure threatened and endangered plant and animal species, and historically sensitive sites, are not impacted. Ensures the agencies involved are notified of the proposed treatment recommendations. If approved, administers the appropriate method and level of management on selected state parcels. Coordinates with regional forestry offices, NJ Department of Agriculture, USDA Forest Service, and USDA Animal and Plant Health Inspections Service (APHIS) for assistance in treatment activities as needed.
- Serves as the lead New Jersey State Forest Health Cooperator and attends national forest health meeting, including the Northeastern Forest Pest Council, Northeastern Area Forest Health Cooperator's Meeting, the Mid-Atlantic Cooperative Forest Health Meeting and the National Forest Health Monitoring Meeting. Your position provides updates on the present forest health status statewide.
- Networks and interacts with federal and state cooperators to stay current on potential forest pest or disease that occurs in adjoining states and discusses the most effective methods for survey, treatment, evaluation, data collection and outreach for forest pests.
- Writes, prepares, and submits federal grant proposals to seek federal funding to support the survey, treatment, and/or evaluation of the above listed forest pests.
- Oversees the federal grant programs by preparing annual federal reports, and fulfilling action items outlined in the federal grants which include survey, management monitoring, data collection and reporting.
- Maintains responsibility for budgeting the use of federal funds to be used for the purchase of equipment and supplies needed to survey and conduct treatment for forest pests. Equipment and supply purchases include safety equipment, compass, Biltmore stick, diameter tape, clinometer, hand lens, binoculars, hatchet, and pesticides.



- Collects data to maintain records of current forest pests and diseases, treatment options used and the short and long term results of treatment. Utilizes ArcGIS to manage the forest health database, create maps, and interpret forest health trends spatially. Manages digital aerial sketch mapping data and uses it to pinpoint high risk areas threatened by forest pests. Creates maps to conduct the survey, treatment, and evaluation of sites that are threatened by forest pests.
- Prepares and oversees evaluation efforts to measure the efficacy of treatment action taken and the current status of the target forest pest post treatment. Evaluates surrounding trees and forests to determine overall forest health conditions in the area.
- Develops, organizes, and writes plans for Hemlock Resource Recovery in response to the impact of HWA on the hemlock population and EAB Readiness Plan in response to the imminent threat to NJ's ash trees, and other forest pests as they arise.
- Coordinates with state and federal agencies, universities, cooperative extension, professional organizations, associations, and volunteer groups to conduct and attend outreach events, develop informational materials, and conduct and report on scientific research projects.
- Provides technical assistance to public inquires including emails, phone calls, and mail correspondence as they relate to forest health issues.
- Creates, updates, and provides fact sheets, news releases, PowerPoint presentations, and informational brochures to the public, state and federal groups, in-house and other interested groups to provide an overview of the current status of New Jersey's Forest Health Program.
- Provides informational materials on high priority forest health issues to consultant foresters, certified tree experts and other tree care professionals. Provides information for development of new informational materials, updates existing materials and the State's Forest Health webpage.
- Maintains responsibility as the Program leader for the NJ State Forestry Service Pesticide Applicator's Licenses (PAL) program. Manages PAL by notifying staff of upcoming courses, maintains a database to track status of credit requirements in CORE and appropriate categories. Submits renewals to maintain PAL annually.

### **Review and Analysis:**

The duties and responsibilities of the position were compared to those described within the class specification for Assistant Regional Forester, and Regional Forester.

The definition section of the specification for the title, Assistant Regional Forester (P22, 02653), states:

"Under general supervision of a Regional Forester or other supervisory official in the Department of Environmental Protection, plans and implements and/or may assist in the oversight of forestry programs



which include contract monitoring in an assigned region of the state, provides professional advice to forestry personnel, industrial organizations, and residents of the state; may serve as field authority in the scientific discipline of forestry; provide professional forestry reviews, planning, and recommendations for forestry programs within an assigned region or central office; does related work as required."

An incumbent in this title plans, implements, and /or may assists in the oversight of forestry programs. The duties include but are not limited to contract monitoring, inspecting and overseeing tree planting for on-site reforestation, proposing areas of replanting, and providing technical advice to forestry supervisory personnel, industrial organizations. In addition, the Assistant Regional Forester serves as a field authority in the scientific discipline of forestry.

Your position develops and plans forest health surveys and monitors the activities for forest pests. Your position is responsible for mapping, data collection, analysis and report preparation of the southern pine beetle, gypsy moth, hemlock woolly adelgid, sudden oak death, emerald ash borer, and other current or potential insects and disease threats. Your position conducts surveys including trapping or field observations to detect the presence or absence of forest pest on public and private land. Your position determines treatment action required to effectively suppress, control, eradicate, or manage a specific forest pest, including chemical, mechanical, biological, or manual methods. Your position serves as the lead New Jersey State Forest Health Cooperator and attends national forest health meetings and provides update on the present forest health status statewide.

Your position writes, prepares, and submits federal grant proposals to seek federal funding to support the survey, treatment, evaluation, data collection and outreach for forest pests. Your position oversees the federal grant programs by preparing annual federal reports, and fulfilling action items outlined in the federal grants including surveying, management monitoring, and data collection and reporting.

The definition section of the specification for the title, Regional Forester (R25, 02654), states:

"Under the direction of a Supervising Forester, or other higher level supervisory officer in the Bureau of Forest Management, Division of Parks and Forestry, Department of Environmental Protection, either (a) supervises the implementation of forest management programs on state-owned forestland and is responsible for efforts which influence policies, programs, and retention of privately-owned forestland; or (b) acts as an authority in the scientific field of forestry by contributing to major problem-solving and supervision of forestry assistance programs and provides expert, technical advice to forestry supervisory personnel, the public and/or wood-using industries; does related work as required."

An incumbent in this title supervises the implementation of forest management programs or supervises program forestry assistance. Although you coordinate the Forest Health Program for the State, you do not supervise staff in the course of your duties. The Regional Forester is assigned to the "R" bargaining unit. Titles in the "R" bargaining unit are utilized for primary or first level supervisory positions.

Therefore, incumbents are typically required to lead, organize, and assign technical or scientific work, and supervise subordinate staff. The essential component of supervision is the responsibility for the administration of formal performance evaluations for subordinate staff. Your position does not have supervisory responsibility as you do not prepare Performance Assessment Review (PAR) forms for any employees.

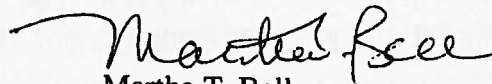
The preponderance of your duties fall within the scope of a Assistant Regional Forester.

**Determination:**

By copy of this letter, the Appointing Authority is advised that your position is presently and properly classified as Assistant Regional Forester (P22, 02653). The class specification for Assistant Regional Forester is descriptive of the general nature and scope of the functions that may be performed by an incumbent in this position. However, the examples of work are for illustrative purposes and are not intended to restrict or limit performance of related tasks not specifically listed.

Please be advised that in accordance with N.J.A.C. 4A:3-3.9, you may appeal this decision within twenty (20) days of receipt of this letter. The appeal should be addressed to the Written Records Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,



Martha T. Bell,  
Human Resources Consultant 5  
Classification and Personnel Management

MTB/db  
c: Robin Liebeskind  
Joseph Siracusa