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Arbitrator
Columbus, Ohio

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In the Matter of Arbitration
Between

The State of Ohio

and

The Ohio Civil Service Employees Association,
Local 11, A.F.S.C.M.E., AFL-CIO

APPEARANCES

For The State of Ohio

Meril Price, Management Representative

For The Ohio Civil Service Employees Association,
Local 11, A.F.S.C.M.E., AFL-CIO

Daniel Smith, Labor Representative

ISSUE: Is pay range 31 the appropriate pay range for the
classifications Emergency Response Coordinator and Hazardous
Materials Investigation Specialist?

The hearing in this matter was held on March 21, 1988
within the offices of the Ohio Department of Administrative
Services's Office of Collective Bargaining, 65 East State Street,
Columbus, Ohio. The parties were afforded a full and fair
opportunity to present testimonial and documentary evidence,
examine and cross-examine witnesses, and make arguments
supporting their positions. The record in this matter was closed
on March 21, 1988.

FINDINGS OF FACT

It was stipulated by the parties that this matter is properly before the arbitrator, under Article 36.04 of the collective bargaining agreement presently in effect between the parties.

On July 20, 1987, the State of Ohio's Office of Collective Bargaining directed a letter to the Ohio Civil Service Employees Association, Local 11, A.F.S.C.M.E. and informed the Union that the State of Ohio intended to establish a new classification entitled Hazardous Materials Investigation Specialist, code number 23161. The Union was also informed within this correspondence that the new classification would be utilized by the Public Utilities Commission of Ohio and assigned to pay range 31. See Joint Exhibit 13.

On August 7, 1987, the Office of Collective Bargaining notified OCSEA, Local 11 that the State of Ohio intended to establish a new classification entitled Emergency Response Coordinator, code number 83461, a classification which also was assigned to pay range 31. See Joint Exhibit 19.

In response to these new classification titles, Emergency Response Coordinator and Hazardous Materials Investigation Specialist, the Union notified the Office of Collective Bargaining that the Union had no quarrel with the duties set out within the classification specifications for these classification titles, but did object in both cases to the assignment of pay range 31 to these classifications. See Joint Exhibits 20 and 21. The Union informed the State of Ohio that it wished to invoke

Article 36.04 of the collective bargaining agreement between the State of Ohio and O.C.S.E.A., Local 11 to resolve the dispute as to the most appropriate pay ranges for the two classifications.

The evidence presented at hearing in this matter establishes that pay ranges for classifications are assigned under a point/factor system which was established in the summer of 1977. The point/factor system utilized to assign pay ranges employs formulas which produce point totals which in turn designate pay ranges. The formulas employed by the point/factor system use weighted duties which encompass a variety of employment factors. Both parties agreed that the point/factor system utilized by the State of Ohio to determine the pay ranges for the two classifications at issue is not in dispute. Both parties agreed that the arbitrator is to use the point/factor system in order to reveal the appropriate pay range for each classification, but the arbitrator has not been requested to pass on the legitimacy of the point/factor system.

Joint Exhibit 5 is the point/factor system evaluation manual utilized by the State of Ohio in assigning the pay ranges to the two classifications at issue. This manual reflects that thirteen separate categories are utilized in determining degrees, which in turn produce point totals, which in the aggregate place the duties assigned to a classification within a spectrum of numerical points which indicate a pay range. These categories are worker characteristics, supervision exercised, policy and methods, assets, personal contacts, records and reports, safety

of others, mental skills, mental demands, physical demands, unavoidable hazards, surroundings, and other unusual working conditions.

In presenting evidence and arguments in support of their respective positions as to the most appropriate pay range for each of the classifications in question, both parties addressed each of the aforementioned categories and provided opinions as to the degrees most appropriate to each of the categories, based on the duties contained within the classification specifications for Emergency Response Coordinator and Hazardous Materials Investigation Specialist. In order to consider the positions of the parties as to the thirteen categories contained within the point/factor system, it is necessary to understand the general outlines of each category.

The category "worker characteristics" within the point/factor system refers to an employee's responsibilities as they relate to understanding instructions, interpreting materials, and taking action. The use of numbers and mathematical concepts, as well as the possession of skills and technical knowledge, are aspects which are weighted under "worker characteristics". Determination of the degree of weight accorded these types of duties is premised upon the extent and complexity of the concepts interpreted, as well as the field of knowledge applied to the problems being solved.

The second category utilized by the point/factor system is "supervision exercised". Determining the most appropriate degree

under this category depends upon the kinds of supervision provided, as well as the composition of the group over which supervision is exercised. Types of supervision referred to under this category are complex direct supervision, direct supervision, limited supervision, and functional supervision. Complex direct supervision presumes full supervisory responsibility over a group comprised of twenty-five percent or more professional and managerial employees. Direct supervision presumes full supervisory responsibility over a group comprising less than twenty-five percent professional and managerial employees. Limited supervision presumes less than full supervisory responsibility but more than the provision of work direction. Functional supervision envisions surveillance over personnel in other units engaged in carrying out work over which the staff member's unit has functional responsibility.

The third category within the point/factor system is "policy and methods". This category refers to carrying out, interpreting, enforcing, originating, developing and approving policies and/or methods essential to efficient operations, administration and management. The determination of the degree under this category is based upon the kinds of responsibilities assigned.

The fourth category within the point/factor system is "assets". This category addresses responsibility for effective and economical use, operation, maintenance, safeguarding, processing, purchasing or storing of equipment, materials or

products. This category focuses on responsibilities directed to the protection of public and private property. The determination of the correct degree under this category is premised upon the extent of an employee's opportunities for achieving economies and preventing losses, as well as the value of items or money involved. Also considered under this category is whether the responsibilities assigned are limited, full or independent.

The fifth category utilized by the point/factor system is "personal contacts". This category considers the responsibility of an employee for securing cooperation and agreement, meeting, dealing with and maintaining contacts with management and legislative officials, representatives of the general public, outside organizations and others. The degree to which a classification requires an employee to carry out responsibilities under this category is adjudged upon the extent, frequency and regularity of establishing and maintaining contacts, the purpose and importance of the contacts, the importance of the resulting actions, and the level of importance of persons contacted.

The sixth category within the point/factor system is "records and reports". This category addresses responsibilities for gathering, recording and preparing informational data for records, reports or other purposes, and the maintenance, preparation, review, approval and presentation of operational, personnel, financial, technical or scientific records and reports. The degree to which a classification falls under this category is determined upon the extent, volume and importance of

the work entailed in the processing of records and reports. Also taken into consideration is the supervisory role fulfilled in the processing of such records and reports. Confidentiality of reports and records, as well as their complexity, are also considered in determining the most appropriate degree under this category.

The seventh category within the point/factor system is "safety of others". This category refers to the requirement, either by authority or by means of the inherent nature of the job described by the classification, for complying with or enforcing compliance with standard safety measures. This category focuses its attention on a classification's responsibilities for assuring the safety of the general public or other employees, excluding subordinates. The degree to which a classification falls under this category is based upon the kind and extent of care which must be exercised, and the probability and severity of accidents attributable to carelessness or negligence by an employee within a particular classification.

The eighth category within the point/factor system is "mental skills" and refers to the extent of analysis, judgment, initiative, ingenuity and creativity required in the performance of duties under a particular classification. The degree to which mental skills are required by a classification is determined upon the scope, variety and complexity of tasks and skills required, as well as the importance of decisions made and the extent of

planning necessary, frequency of occurrence of problems, and difficulty in achieving solutions.

The ninth category within the point/factor system is "mental demands". This category addresses the amount of mental attention, application and concentration needed to perform duties under a classification, and also considers any unusual pressures present in performing the duties of the classification. The degree to which mental demands are present under a classification depends upon the mental strain and fatigue resulting from the mental demands of the duties within the classification, as well as the amount of concentration under which work is performed.

The tenth category within the point/factor system is "physical demands". This category addresses the physical exertion necessary to a classification and the dexterity in limb or body movements which are necessary to provide satisfactory performance. The degree to which physical demands are necessary to a classification depends upon the severity of the exertion required, the frequency and duration of periods during which physical effort must be applied, and the amount of dexterity required in performing the highest skills required by a classification.

The eleventh category within the point/factor system is "unavoidable hazards". This category takes into consideration the hazards, both accidental and health related, which are present on the job under a classification. This category presumes that these hazards are present even though all

reasonable safety precautions have been taken. The degree to which unavoidable hazards are to be weighted in utilizing the point/factor system depends upon materials handled and the possibility of illness which may occur. Also considered under this category is the frequency of exposure to hazards.

The twelfth category within the point/factor system is "surroundings". This category addresses the regular and continuing surroundings or physical conditions under which a job is performed for a particular classification, and the extent to which conditions make the job disagreeable and/or uncomfortable. Elements considered under the degree to which surroundings are to be weighted include extreme temperatures, dirt, dust, fumes, constraintment, isolation, odors and humidity. "Surroundings" specifically excludes conditions which represent accidental or health risks.

The final category utilized within the point/factor system is "other unusual working conditions". This final category was not addressed by evidence presented by either party, and it is therefore presumed to be a category not applicable to the issues in this matter.

UNION POSITION

The Union's position was presented by addressing each of the categories within the point/factor system for both Emergency Response Coordinator and Hazardous Materials Investigation

Specialist. For each category and for each classification the Union proposed a degree which it believed appropriate to the duties listed.

For Emergency Response Coordinator the Union urged that the category "worker characteristics" should result in a degree of ten. Degree ten under this category refers to considerable knowledge of a practical field of study, such as business, social sciences or humanities, and the ability to define unusual problems, collect data, establish facts and draw complex conclusions. It is the Union's view that an Emergency Response Coordinator is required to draw conclusions based upon a considerable breadth of knowledge within various fields and therefore this classification warrants a degree of ten for "worker characteristics".

For "supervision exercised" it is the position of the Union that a degree of three is most appropriate for Emergency Response Coordinator. In support of this view the Union pointed to the duties contained within the third rank of the classification specification for Emergency Response Coordinator, specifically the duties which require an employee so classified to provide technical guidance and training to agency personnel, consultants, private sector and other county, state and local government officials. See Joint Exhibit 1. The Union urged that the supervision included within the classification specification for Emergency Response Coordinator should result in a degree of three being assigned to this category.

For the category "policy and methods", the Union suggested that a degree of five was most appropriate for the classification Emergency Response Coordinator. In support of this recommendation the Union pointed to the first rank of the classification specification for Emergency Response Coordinator wherein an employee so classified is to develop on-site policies and procedures to insure consistent application of state and federal regulations. This rank also requires recommendations for revisions of established policies and guidelines. Rank two was also mentioned by the Union for this category, specifically for the duties involving investigation and evaluation of hazardous waste pollution control problems to insure compliance with federal and state guidelines, and duties contained within rank four which refer to the development of performance guidelines for industries or their contractors in order to achieve compliance with agency standards for spill mitigation or prevention.

As to the category "assets", the Union recommended that the duties of an Emergency Response Coordinator are best described by degree four of this category. There is no dispute as to this category as the State of Ohio also recommends a degree of four for "assets".

For the category "personal contacts", the Union urges a degree of five, based upon ranks two, three and four of the classification specification for Emergency Response Coordinator. Specifically, the Union pointed out that an employee so classified must engage in interpersonal interactions with

industrial groups, agency personnel, governmental officials, and citizens in executing the required duties contained within these ranks. The Union stressed that those duties related to compliance with state and federal guidelines and remedies point to degree five, which calls for considerable responsibility for continuing personal contacts with employees, representatives of organizations and groups, as well as the handling of very difficult personal relationships.

As to the category "records and reports", the Union stresses the degree of confidentiality which must be maintained in the kinds of reports and records produced by an Emergency Response Coordinator. Based as well on the volume of records required of an employee so classified, the Union urges that a degree of four be assigned to Emergency Response Coordinator under this category.

For the category "safety of others", the Union differentiates between Emergency Response Coordinator and Hazardous Materials Investigation Specialist. It is the Union's position that an Emergency Response Coordinator has a higher degree of responsibility under this category than does a Hazardous Materials Investigation Specialist. The Union recommends that a degree of three for "safety of others" be assigned to the Emergency Response Coordinator classification.

For the category "mental skills", the Union points to the responsibilities of an Emergency Response Coordinator in the conduct of environmental studies and evaluations of a variety of

groups as to compliance with federal and state policies and procedures, as supporting a degree of five for this category.

For the category "mental demands", the Union urges that as the first and second ranks of the classification specification for Emergency Response Coordinator account for a minimum of two-thirds of an employee's time, and as these ranks require sustained concentration, and because an employee under this classification is on call twenty-four hours per day and may find himself or herself within unusual predicaments, the category "mental demands" should be adjudged a degree of four.

For the category "physical demands", the Union and the State are in agreement, with both assigning to the classification Emergency Response Coordinator a degree of two.

For the category "unavoidable hazards", the Union admits that there is some ambiguity as to this category within the duties enumerated within the classification specification for Emergency Response Coordinator. Based on the continuous nature of the duties required of this classification in addressing hazardous circumstances, the Union urges that a degree of three be assigned to this category.

As to the category "surroundings", the Union suggests that an Emergency Response Coordinator is required to work in extremely disagreeable surroundings and is therefore entitled to a degree of three for this category.

At hearing the Union stated that when the correct number of points are assigned to the degrees recommended by the Union for

the aforementioned categories, a point total of one hundred eleven is produced, which results in a pay range of thirty-three for Emergency Response Coordinator.

The same analysis was presented by the Union for the Hazardous Materials Investigation Specialist classification. For the category "worker characteristics" both the Union and the State agreed that this category should be assigned a degree of nine for Hazardous Materials Investigation Specialist.

For the category "supervision exercised", the Union pointed to those duties within the classification specification for Hazardous Materials Investigation Specialist which referred to acting as a lead worker, that is, providing work direction and training over Public Utilities Transportation Investigators 1 and 2, when said personnel are assigned to conduct inspections of vehicles carrying hazardous materials. Based on these kinds of duties the Union recommends that a degree of three be assigned to the category "supervision exercised" for purposes of assessing Hazardous Materials Investigation Specialist.

Under the category "policy and methods", the Union and State are in agreement as to the classification Hazardous Materials Investigation Specialist in that both recommend that a degree of four be assigned to this category.

For the category "assets", the parties are also in agreement that the classification Hazardous Materials Investigation Specialist be assigned a degree of four.

For the category "personal contacts", the Union recommends a degree of six, based upon the duties involving interaction with carriers and shippers contained within the first rank of the specification for this classification; as well as the interaction required for spontaneous and unannounced inspections of carriers and sites which appear in the second rank of this classification specification. The Union also points to the public relations efforts mentioned within the fourth rank of this classification specification in arriving at its recommendation of a degree of six for "personal contacts".

As to "reports and records", both the Union and the State of Ohio are in agreement that a degree of four is appropriate for this category.

For the category "safety of others", the Union recommends a degree of three because a Hazardous Materials Investigation Specialist may serve as a lead worker in examining vehicles carrying hazardous materials.

For "mental skills", the Union recommends a degree of five.

For "mental demands", the Union points to the unusual pressures inherent in job duties which require close proximity to hazardous materials, as well as the sustained concentration required for such duties. Based on these considerations the Union recommends a degree of four for "mental demands".

Under the category "physical demands", both the Union and the State of Ohio are in agreement that a degree of one is appropriate for Hazardous Materials Investigation Specialist.

For the category "unavoidable hazards", the Union and the State of Ohio are also in agreement that this category is most appropriately assigned a degree of two.

For the category "surroundings", the Union and the State of Ohio are in agreement that a degree of two is appropriate for this category.

The Union pointed out that if the degrees recommended by it for Hazardous Materials Investigation Specialist are assigned the points appropriate for each degree, a total of ninety-seven points is the resulting sum, which produces a pay range of thirty-two.

Based on the aforementioned analysis presented by the Union at hearing, it is urged by the Union that the classification Emergency Response Coordinator be assigned a pay range of thirty-three; and that the classification Hazardous Materials Investigation Specialist be assigned a pay range of thirty-two.

MANAGEMENT POSITION

The position of the State of Ohio in this matter was presented in large part through the testimony of Gail I. Lively. Ms. Lively is an employee of the Ohio Department of Administrative Services, Division of Personnel, Classification and Compensation Section. Ms. Lively is the administrator in charge of the Classification and Compensation Section and has worked in this area since January, 1972. Ms. Lively explained at

hearing that she is the supervisor of a group of personnel technicians who are charged with the responsibility of developing and maintaining a classification plan utilized by the State of Ohio. The personnel technicians supervised by Ms. Lively also develop and maintain classifications utilized by county departments of human services, certain county offices, and universities, colleges, and certain county officers.

Ms. Lively explained that it was her section which prepared the classification specifications at issue. Ms. Lively pointed out that the two classifications in question are not alike. According to Ms. Lively, the Emergency Response Coordinator classification describes a technical advisor who is to assist industry in the preparation of contingency plans to be followed in the event of spills of hazardous materials or waste, and is also to assist industrial representatives in plans utilized to prevent spillage of such materials. Ms. Lively also pointed out that an Emergency Response Coordinator is to address citizens' complaints in this area.

Ms. Lively testified that a Hazardous Materials Investigation Specialist serves as an investigator/inspector of interstate transport of hazardous materials. Ms. Lively pointed out that a Hazardous Materials Investigation Specialist works primarily in the field, providing spot inspections and insuring compliance by transporters of hazardous materials with state and federal regulations. Ms. Lively stated that while employees classified under both classifications may appear at spill sites, the

Emergency Response Coordinator performs his duties primarily for the Ohio Environmental Protection Agency, and the Hazardous Materials Investigation Specialist is an employee primarily of the Public Utilities Commission of Ohio.

Ms. Lively also addressed the subject of supervision as contained within the classification specifications utilized by the State of Ohio within its classification plan. Ms. Lively pointed out that the definition of supervision presently utilized by the State of Ohio is contained within Ohio Revised Code Section 4117.01(F), a section within the definitions provided by the Ohio Public Employee Collective Bargaining Act. This statutory definition defines "supervisor" as any individual who has the authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature but requires the use of independent judgment.

Ms. Lively explained that as a result of a decision of the Franklin County Court of Appeals a number of employees who had been within a bargaining unit were reclassified to positions which resided outside of the bargaining unit. In an attempt to avoid further erosion of the bargaining unit, the classification Emergency Response Coordinator was established. Ms. Lively pointed out in her testimony that the classification Emergency

Response Coordinator was promulgated for inclusion within a bargaining unit.

Ms. Lively also provided testimony as to the history of the point/factor system utilized by the State of Ohio in assigning pay ranges to classifications. Within her testimony Ms. Lively explained that the point/factor system is substantially affected by the types and levels of supervision assigned to a classification. In this regard Ms. Lively expressed the opinion that the Union, in performing its point/factor analysis of the duties assigned to the classification Emergency Response Coordinator, made a critical error in that the Union ascribed supervisory responsibilities to the classification where none exists. Ms. Lively pointed out that in order for supervision to impact the point factor system, the supervision provided must be in the employee's own chain of command. Ms. Lively pointed out that as of the time of hearing there were one thousand eight hundred thirty-two classification titles utilized by state and county governments.

CONCLUSIONS OF LAW

It is important to remember that the point/factor system utilized by the Ohio Department of Administrative Services to assign pay ranges to Emergency Response Coordinator and Hazardous

Materials Investigative Specialist is not in dispute. Both parties agreed that the point/factor system utilized by management in assigning pay ranges to these classifications is the system to be used to reach conclusions as to appropriate pay ranges, and the application of this system should determine the outcome of this arbitration.

In addressing how the point/factor system should be applied in this case, both parties have submitted their respective analyses as to how the duties of each classification impact on the point/factor system. The State of Ohio performed its analyses in assigning the pay ranges presently in effect; and the Union conducted its own point/factor system audit prior to hearing and presented its conclusions as to how these classifications fared under the Union's application of the point/factor system. In both cases the focus of attention was how specific types and amounts of duties were best described, by degree, under the twelve categories found within the point/factor evaluation manual, Joint Exhibit 5.

The second page of this point/factor evaluation manual reflects two schedules, Schedule A and Schedule B. Both classifications at issue within this matter fall under Schedule B (Schedule B has been renamed recently, but the point totals and corresponding pay grades have not been affected). Schedule B within the point/factor evaluation manual reflects that seventy-nine to ninety-one points produces a pay grade of thirty-one; ninety-two points to one hundred-five points results in a pay

range of thirty-two; and one hundred-six points to one hundred twenty-one points results in a pay range of thirty-three.

The first category under the point/factor system is "worker characteristics". "Worker characteristics" refer to reading, hearing, and understanding instructions; interpreting the intent of a broad range of materials and taking appropriate action; using numbers and mathematical concepts; and possessing skill or technical knowledge. This manual requires that the determination of the degree under "worker characteristics" be based upon the extent and complexity of concepts interpreted, the type of field of knowledge applied, and the kinds of problems being solved.

For Emergency Response Coordinator, management recommends a degree of nine; while the Union urges a degree of ten. Degree nine under "worker characteristics" refers to general knowledge of a scientific or highly technical field of study; basic knowledge of trigonometry, calculus, or statistical analysis; the ability to define problems, collect data, establish facts and draw valid scientific or technical conclusions; and the ability to write and/or edit a variety of scientific or technical materials.

Degree ten under "worker characteristics" requires considerable knowledge of a practical field of study, such as the social sciences; the ability to define unusual problems, collect data, establish facts and draw complex conclusions; the ability to comprehend a wide variety of technical materials; the ability

to write and/or edit complex materials for technical audiences; and a general understanding of the field of law.

The duties within the classification specification for Emergency Response Coordinator, which may be found within Joint Exhibit 1, describe an employee who, within an assigned district, responds to and investigates the spill of hazardous materials. Such an employee is to coordinate and monitor clean-up activities at these spills. Such an employee is to insure that state and federal regulations governing hazardous materials are satisfied, and is also to recommend revisions in established policies and guidelines after reviewing their impact in the field. An Emergency Response Coordinator is responsible for air, water and ground contaminants.

An Emergency Response Coordinator is also to perform investigations and evaluations of hazardous material pollution problems within operating facilities. Once again, compliance with federal and state guidelines is an integral part of the duties assigned to an Emergency Response Coordinator. By necessity an Emergency Response Coordinator must spend significant amounts of time interacting with officials within the public and private sectors. While an Emergency Response Coordinator is most often employed by the Ohio Environmental Protection Agency, a variety of other state departments must be worked with in order to carry out the purposes of this classification. Contact with corporate officials is also a common

feature of this classification. Citizens' complaints are also fielded by Emergency Response Coordinators and monitored.

An Emergency Response Coordinator spends one-fifth to one-sixth of his time providing technical guidance and training to agency personnel, consultants, and other individuals within the private and public sectors. Such an employee may also be involved in the development of performance guidelines bearing on hazardous materials pollution within Ohio industry.

A Hazardous Materials Investigation Specialist is primarily responsible for insuring that state and federal laws bearing on the packaging, labeling, placarding, manifesting, handling and transportation of hazardous materials are satisfied by carriers and shippers. An employee classified Hazardous Materials Investigation Specialist is normally employed by the Public Utilities Commission of Ohio, as interstate transport of materials generally falls under the jurisdiction of the PUCO. Like the Emergency Response Coordinator, the Hazardous Materials Investigation Specialist must interpret rules and regulations bearing on hazardous materials in order to make sure that they are properly enforced. A Hazardous Materials Investigation Specialist must communicate his knowledge as to the intent of these laws to carriers, and also must apply these laws to inspections of vehicles transporting hazardous materials in the field. Roadside inspections of commercial motor and rail vehicles are assigned to Hazardous Materials Investigation Specialists and reports as to these inspections are required.

The conduct of field inspections may be spontaneous and unannounced, or the inspection may be in response to a complaint received. Only two to eight percent of a Hazardous Materials Investigation Specialist's time is to be spent at the site of spills of hazardous materials. A similarly small amount of time may be used by a Hazardous Materials Investigation Specialist in the role of a lead worker, providing work direction and training to Public Utilities Transportation Investigators 1 and 2, when such employees are assigned to inspections of vehicles carrying hazardous materials. A Hazardous Materials Investigation Specialist may spend twelve percent to eighteen percent of his time providing testimony on behalf of his agency.

The major difference between degrees nine and ten under "worker characteristics" involves the type of field of knowledge which an employee must possess in order to carry out the duties of his or her classification. Degree nine of "worker characteristics" refers to scientific or highly technical fields of knowledge. Degree ten refers to knowledge of practical fields of study, such as business, social sciences and humanities. Degree ten also refers to a general understanding of the field of law.

Both the Emergency Response Coordinator and the Hazardous Materials Investigation Specialist must be knowledgeable of certain aspects of scientific or highly technical information concerning hazardous materials. However, the kinds of information necessary to these classifications do not extend to

the knowledge necessary for laboratory work or chemical analysis. Other aspects of the duties carried out by both classifications are more directly related to enforcement of laws, and operational and logistical necessities. Considering the relatively limited amount of scientific knowledge necessary to these classifications, as opposed to the more extensive knowledge necessary in fields of law and non-technical areas, it is determined herein that both Emergency Response Coordinator and Hazardous Materials Investigation Specialist, under the category "worker characteristics", are more appropriately described by degree ten, a degree producing twenty-two points.

The next category within the point/factor system is "supervision exercised". It is important to recall that both parties agreed that Emergency Response Coordinator and Hazardous Materials Investigation Specialist are classifications properly within a bargaining unit. With this in mind, it must be presumed that neither classification is assigned direct, managerial supervisory responsibilities. If supervision is present at all within these classifications, it may only rise to the level of functional supervision.

In examining the specifications for the two classifications at issue, it may be seen that neither refers to functional supervision within their first four ranks. Rank five of Hazardous Materials Investigation Specialist, a rank accounting for 2% to 8% of an employee's time, refers to an employee so classified acting as a lead worker by providing work direction

and training to Public Utilities Transportation Investigators 1 and 2, when these investigators are assigned to inspections of vehicles carrying hazardous materials. It is clear from the language within this final rank of the specification for Hazardous Materials Investigation Specialist that the employees over which lead worker status is exercised are not employees within the chain of command of the Hazardous Materials Investigation Specialist. Lead worker duties are provided only during particular tasks, that is, when particular employees inspect vehicles carrying hazardous materials.

No supervision of any kind is mentioned within the classification specification for Emergency Response Coordinator. While the first rank of this classification refers to coordination of activities, it is determined herein that coordination is not synonymous with supervision, and therefore does not impact the category "supervision exercised".

Based on a consideration of the duties specifically enumerated within the two classification specifications at issue, it is determined that Emergency Response Coordinator deserves a degree of zero for "supervision exercised", producing zero points; and the classification Hazardous Materials Investigation Specialist should be assigned a degree of one, resulting in one point.

The category "policy and methods" refers to carrying out, interpreting, enforcing, originating, developing and approving policies and/or methods essential to efficient operation,

administration and management. Both parties agreed that the classification Hazardous Materials Investigation Specialist is best described by degree four under this category, resulting in eight points.

As to Emergency Response Coordinator, the State urged degree four, claiming that degree five reflects duties which fall outside of the bargaining unit. The Union contended that degree five was more appropriate to Emergency Response Coordinator.

Degree four of "policies and methods" refers to considerable responsibility for carrying out, explaining, interpreting, coordinating and enforcing existing intra-unit policy and methods, and for assisting in originating and developing inter-unit policies and methods. Degree five, on the other hand, refers to major responsibility for developing, coordinating, originating and executing inter-unit and methods in a large organization or agency; or for assisting in the development of over-all administrative policy or methods in a division or in an organization-wide staff function; or for determining the legal basis for policy. Considering that an Emergency Response Coordinator spends much more time coordinating and enforcing policies and methods than developing policies bearing on hazardous materials, it is determined that Emergency Response Coordinator is more appropriately described by degree four under "policy and methods", producing a point total of eight.

The next category within the point/factor system is "assets". The parties agreed that both classifications were most

appropriately described by degree four under "assets", a degree producing eight points.

The next category is "personal contacts". "Personal contacts" refer to the responsibility for securing cooperation and agreement, meeting, dealing with and maintaining contacts with management and legislative officials, representatives of the general public, outside organizations and others. This category depends on the extent, frequency and regularity of establishing and maintaining contacts, the importance of the contacts, and the importance of the resulting actions and level of importance of persons contacted. Contacts with co-workers within the same unit are not considered under this category.

Degree four under "personal contacts" refers to considerable responsibility for making regular contacts either in situations involving meeting and dealing with persons of importance of substantially high rank, requiring explanation and interpretation on specialized matters in obtaining desired actions, or in handling difficult personal relationships. Degree five under this category refers to continuing personal contacts with employees, representatives, organizations and groups involving discussion, explanation and interpretations of policies, rules and regulations, or handling negotiations or very difficult personal relationships. Degree six under this category refers to major responsibility for making continued personal contacts to establish and maintain public relations, frequently involving difficult negotiations and presentations, and the interpretation

of policies, rules and regulations with administrative officials with the highest rank and representative groups. Degree six envisions activities wherein difficult situations are handled involving the explanation, interpretation and presentation of policies, rules and regulations in order to maintain good relations.

Neither classification at issue is charged with the major responsibility of making continuing personal contacts to establish and maintain a public relations function. While employees classified under both classifications are certainly expected to deal with members of the public, officials within the public and private sectors, and others with courtesy and in a professional manner, their duties do not focus on the relationship between their respective agencies and the persons contacted, but rather hazardous material spills or the transport of hazardous materials. It is therefore determined that degree six is not applicable to either classification under the category "personal contacts".

The major difference between degree five and degree four under "personal contacts" is that the higher degree refers to continuing personal contacts for purposes of discussion, explanation and interpretation of policies; while degree four refers to making regular contact in situations involving meeting and dealing with persons of importance of substantially high rank, requiring explanation and interpretation of specialized matters in obtaining desired actions. As a Hazardous Materials

Inspection Specialist is to interpret, communicate and clarify rules and hazardous material safety requirements, and review safety programs with carriers and/or shippers, and because these duties appear within the first rank of the classification specification for this classification title, it is determined that degree five under "personal contacts" is more appropriate, a degree producing fourteen points. As to Emergency Response Coordinator, the importance of coordination of activities and the requirements of dealing with others in effecting that coordination persuades the arbitrator that a degree of five is also more appropriate for Emergency Response Coordinator.

The next category is "records and reports", a category defining responsibilities for gathering, recording and preparing informational data for records, reports or other purposes. The degree under "records and reports" is premised upon the extent, volume and importance of the work involved in the processing of such records and reports, or for supervising the processing of such records and reports. Both parties agreed that Hazardous Materials Investigation Specialist is best described by degree four under "records and reports", a degree producing eight points.

Degree three of "records and reports" refers to responsibility for preparing, checking and reviewing important, detailed and complex operational or technical records, or for accumulating, preparing and/or safeguarding data or information for confidential oral or written reports. Degree four, on the

other hand, refers to independent responsibility for important operational, scientific or technical records for specified activities within a highly specialized unit.

An Emergency Response Coordinator serves as the eyes and ears of the Ohio Environmental Protection Agency at hazardous material spill sites. The information gleaned from first hand knowledge of situations in the field, both as to the extent of the danger posed and the clean-up activities at the spill, are provided through written reports. The independent responsibility for these important operational reports persuades the arbitrator that degree four is more appropriate for Emergency Response Coordinator under "records and reports".

The category "safety of others" refers to the requirement, either granted by authority or inherent within the nature of the job, for complying with or forcing compliance with standard safety measures and good housekeeping practices, and the exercise of care to assure the safety of and prevent the illness of the general public or other employees. Safety of subordinate employees is not to be considered under this category. Degrees under this category are based upon the kind and extent of care which must be exercised and the probability and severity of accidents attributable to the carelessness or negligence of the employee.

Degree three under "safety of others" refers to a high level of supervisory responsibility for public safety or health, and for enforcement of laws and standards bearing on public safety

and health. Degree four refers to management responsibility for supervision of a major public safety or health function, and for the enforcement of laws and standards of public safety or health.

Considering that both classifications are within a bargaining unit, and considering as well that both have a high level of responsibility for public safety and health, it is determined that both classifications are best described by degree three under "safety of others". This degree results in six points for each classification.

The next category is "mental skills", a category which refers to the extent of analysis, judgment, initiative, ingenuity and creativity needed to perform the duties of a classification. Degrees under this category are based on the scope, variety and complexity of the tasks and skills required. Also considered for purposes of degree are the importance of decisions made, the extent of planning necessary, the frequency of occurrence of problems, and the difficulty in achieving their solutions. Both parties agreed that Emergency Response Coordinator was best described by degree four.

Degree four under "mental skills" refers to a general understanding of operating policies and procedures, complete familiarity with a major function and/or application to problems not covered previously; or the application of specialized technical or professional principles and practices, or the use of a wide range of administrative methods in the solutions of problems. Degree five calls for a general understanding of

operating policies and procedures and ability to apply these to complex problems; or the application of professional-level principles and practices in the use of a wide range of scientific, engineering, accounting or legal methods in the solution of technical, administrative or legal problems; or in the coordination of sub-professional engineering work.

Considering that a Hazardous Materials Investigation Specialist is primarily interested in the safety of hazardous materials while in transport, and considering as well that such an employee spends little if any time at hazardous materials spills, it is determined that the nature of the inspections performed, while requiring complete familiarity with a major function and its application to problems, does not require the application of professional-level principles and practices in the use of a wide range of scientific, engineering or legal methods in the solution of technical or legal problems. It is therefore determined that the classification Hazardous Materials Investigation Specialist is better described by degree four under "mental skills", a degree producing ten points.

The next category is "mental demands", a category which refers to the amount of mental attention, application and concentration required, and unusual pressures involved in performing the duties of the classification. Determination of degree is based upon mental strain and fatigue resulting from the mental demands of the position, as well as the amount of concentration under which work is performed.

Degree three under "mental demands" refers to normal attention with short periods of concentration for accurate results and occasional exposure to unusual pressure; or continuous, close attention for accurate results; or frequent exposure to unusual pressure. Degree four refers to a combination of continuous, close attention for accurate results and frequent exposure to unusual pressure; or sustained, intense concentration for accurate results; or continuous exposure to unusual pressure.

There is no question that work carried out near hazardous materials requires close attention, at times intense concentration, and may entail unusual pressures. However, a Hazardous Materials Investigation Specialist is not commonly found at hazardous material spills, and even an Emergency Response Coordinator does not spend all of his time at hazardous sites. While an Emergency Response Coordinator must operate under intense pressures when a hazardous spill site is first encountered, and while close attention must be paid to clean-up activities, it is not found that Emergency Response Coordinators work under continuous exposure to unusual pressures or must sustain intense concentration for accurate results. It is therefore determined that both classifications, under the category "mental demands", are better described by degree three, a degree producing six points.

The next category is "physical demands", a category which refers to the necessity of physical exertion or the performance

of duties requiring dexterity in limb or body movements. Determination of degree under "physical demands" is premised upon the severity of exertion required and the frequency and duration of periods during which physical efforts must be applied, as well as on the amount of dexterity required in performing the highest skills of the position.

The parties were in agreement for both classifications under the category "physical demands". Both parties agreed that Hazardous Materials Investigative Specialist is appropriately described by degree one, producing one point; while Emergency Response Coordinator is better described by degree two, which produces three points.

The next category is "unavoidable hazards", a category which refers to accidental and health hazards present on the job, even though all reasonable safety precautions have been taken. The determination of degree under this category is based upon the types of materials handled, the machines or tools used, the work position, the possibility and severity of accidents or illnesses which may occur even if none has occurred, and the frequency of exposure to hazards. Both parties agreed that degree two under "unavoidable hazards" was most appropriate for Hazardous Materials Investigative Specialist, a degree producing two points.

Degree two under "unavoidable hazards" refers to frequent exposure to working conditions when critical illness or loss of life are occasionally encountered despite the provision of safety

measures and health precautions. Degree three refers to continuous exposure to working conditions which may produce critical illnesses and loss of life occasionally.

There is no question that an Emergency Response Coordinator may be required to be present near spills of hazardous materials which could produce negative physical affects on those near such sites. However, it is not determined that this classification requires continuous exposure to working conditions where critical illness or loss of life occasionally are encountered. It is therefore determined that Emergency Response Coordinator, for purposes of "unavoidable hazards", is best described by degree two.

The final category is "surroundings", a category which refers to the regular and continuing surroundings under which a job must be performed, making the job disagreeable and/or uncomfortable. The degree under this category is determined upon conditions present and the frequency of exposure to these conditions. Elements considered are extreme temperatures, dirt, fumes, constraintment, isolation, odors and humidity.

Both parties agreed that the classification Hazardous Materials Investigation Specialist is best described by degree two for "surroundings", a degree producing two points.

Degree two under "surroundings" refers to very disagreeable working conditions due to regularly intermittent exposure to several very disagreeable elements, or continuous exposure to one very disagreeable element, or to several disagreeable elements.

Degree three refers to extremely disagreeable working conditions due to continuous exposure to several disagreeable elements. It is determined herein that an Emergency Response Coordinator does not work under conditions where he is continuously exposed to several very disagreeable elements. It is therefore determined that degree two under "surroundings" is more appropriate to Emergency Response Coordinator.

The above determinations as to the degrees for each of the categories for each of the classifications at issue produce a point total for Emergency Response Coordinator of eighty-eight points, and a point total of eighty-eight points as well for the classification Hazardous Materials Investigation Specialist. Eighty-eight points, under the point bracket chart appearing on page two of the point/factor evaluation manual, Joint Exhibit 5, under Schedule B, indicates a pay range of thirty-one.

AWARD

Pay range 31 is the appropriate pay range for the classifications Emergency Response Coordinator and Hazardous Materials Investigation Specialist.


Howard D. Silver
Arbitrator

April 19, 1988
Columbus, Ohio