

U.S. Office of Personnel Management
Division for Human Capital Leadership & Merit System Accountability
Classification Appeals Program

Dallas Field Services Group
Plaza of the Americas, North Tower
700 North Pearl Street, Suite 525
Dallas, TX 75201

Job Grading Appeal Decision
Under sections 5103 and 5346 of title 5, United States Code

Appellant: [appellant]

Agency classification: Hazardous Waste Disposer
WG-6913-6

Organization: Pollution Prevention Division
Environmental Department
Naval Air Station, Joint Reserve Base
Department of the Navy
[city and state]

OPM decision: Hazardous Waste Disposer
WG-6913-6

OPM decision number: C-6913-06-02

Marta Brito Pérez
Associate Director, Division for Human Capital
Leadership & Merit System Accountability

June 15, 2004

Date

As provided in section S7-8 of the *Operating Manual: Federal Wage System*, this decision constitutes a certificate that is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the government. There is no right of further appeal. This decision is subject to discretionary review only under conditions and time limits specified in section 532.705(f) of title 5, Code of Federal Regulations (address provided in the *Introduction to the Position Classification Standards*, appendix 4, section H).

Decision sent to:

[appellant's name and address]

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Introduction

On November 17, 2003, the Dallas Field Services Group of the U.S. Office of Personnel Management (OPM) accepted a job grading appeal from [appellant]. We received the agency administrative report on December 5, 2003. His job is currently graded as Hazardous Waste Disposer, WG-6913-6, and is assigned to the Pollution Prevention Division, Environmental Department, at the Naval Air Station, Joint Reserve Base, (NAS JRB), Department of the Navy, located in [city and state]. The appellant is requesting his job be graded as Hazardous Waste Disposer, WG-6913-7. He also believes part of his work is that of an Environmental Protection Specialist, GS-028-9. We have accepted and decided his appeal under sections 5103 and 5346 of title 5, United States Code (U.S.C.).

Background

The appellant filed an appeal in accordance with his agency procedures in August 2003. The Department of Defense's Civilian Personnel Management Service decision, dated October 24, 2003, sustained the Navy's classification of his job as Hazardous Waste Disposer, WG-6913-6.

To decide this appeal, we conducted a telephone audit with the appellant on January 21, 2004. We also conducted telephone interviews with the appellant's immediate supervisor and the Program Manager on January 21 and 22, respectively. In making our decision, we have carefully considered all of the information contained in the record provided by the appellant and his agency, including the information obtained in the interviews.

General issues

The appellant compares his inspection duties to those performed by GS-028 Environmental Protection Specialists. By law, we must classify positions solely by comparing their current duties and responsibilities to OPM standards and guidelines (5 U.S.C. 5106, 5107, and 5112). Since comparison to standards is the exclusive method for classifying positions, we cannot compare the appellant's position to others as a basis for deciding his appeal.

Job information

The Pollution Prevention Division is responsible for ensuring that both Navy and tenant activities are in compliance with Federal, State, and local environmental regulations in the areas of hazardous solid and infectious waste, recycling, and pollution prevention in accordance with the Resource Conservation and Recovery Act and the Emergency Planning Community Right to Know Act. The Division workforce of approximately 13 people is a mixture of General Schedule environmental protection positions, Federal Wage System (FWS) workers, and enlisted military personnel. The appellant is supervised by the head of the Division, whose position is classified as Supervisory Environmental Protection Specialist, GS-028-11.

The appellant is responsible for collecting and transporting both hazardous and nonhazardous waste from 49 satellite accumulation sites to a centralized onsite temporary storage facility. He ensures that containers are suitable for their contents, structurally sound, and properly packaged

and labeled. The appellant visually inspects containers for leakage and ensures labels are correct. After transporting the containers to the central storage facility, he weighs and labels the individual containers and places them in the appropriately designated bay, according to content and compatibility. The appellant then schedules waste items for pick-up and disposal by contractors.

The appellant conducts monthly inspections of all satellite sites using an 18-point checklist to ensure that the labeling/markings, condition, and location of containers are in compliance with regulations. He provides assistance to the site coordinators on the proper handling, packaging, and labeling of wastes as well as the completion of release/receipt documents. The appellant makes note of all noncompliance issues and refers them to the Program Manager for further action. He completes maintenance record inventories and operating logs and uses a computer database inventory to perform his work. The appellant operates a 2.5 ton stake truck and a forklift as part of his job. He is a member of the Spill Response Team and participates in containment, treatment, and clean-up operations. He also assists in collecting, sorting, and preparing materials for shipment for the recycling program.

A pen-and-ink change to the appellant's job description on August 27, 2002, replaced "weekly" with "monthly" inspections of the hazardous waste storage areas at all generator locations. The central storage facility remains on a weekly inspection schedule. The percentage of time spent performing this specific duty remained at 10 percent.

The first-level supervisor has certified as to the accuracy of the appellant's job description. The appellant certified the job description as accurate except for Part III, Supervisory Controls. He indicates that, although he works for the supervisor, he makes decisions independently. The appellant is assigned to job description number [number]. Based on our review of the record, we find that the job description contains the major duties and responsibilities performed by the appellant and we incorporate it by reference into this decision.

Pay plan, occupation, and title determination

Implicit in the appellant's rationale is that he is performing both General Schedule (GS) and FWS work. He believes that his inspection work, described previously, is GS in nature. This duty occupies approximately 10 percent of his time. The appellant says that when he encounters questionable compliance issues during routine inspections and offers recommendations for changes to comply with safety and other regulations, he is performing "on-the-spot" training. He believes that by checking or inspecting the work of others in the area of compliance and performing the necessary training on the spot, he is actually working above his grade level and should be compensated accordingly.

Section IV of the *Introduction to the Position Classification Standards* provides guidance for determining whether a position is covered by the GS or the FWS. Section 5102(c)(7) of title 5, United States Code, exempts from coverage under the GS those "employees in recognized trades or crafts, or other skilled mechanical crafts, or in unskilled, semi-skilled, or skilled manual-labor occupations, and other employees including foremen and supervisors in positions having trade, craft, or laboring experience and knowledge as the paramount requirement." The paramount

requirement of a position is defined as the essential, prerequisite knowledge, skills, and abilities needed to perform the primary duty or responsibility for which the position has been established. Whether particular types of positions are trades, crafts, or manual labor occupations within the meaning of title 5 depends on the facts of duties, responsibilities, and qualification requirements; i.e., the most important, or chief, requirement for the performance of a primary duty or responsibility for which the position exists. If a position requires trades, crafts, or laboring experience and knowledge as a requirement for the performance of its primary duty, and this requirement is paramount, the position is under the FWS.

The Environmental Protection Specialist Series, GS-028, position classification standard covers positions that involve advising on, managing, supervising, or performing administrative or program work relating to environmental protection programs. These positions require specialized knowledge of the principles and methods of administering environmental protection programs and the laws and regulations related to environmental protection activities. In the area of compliance and enforcement, environmental protection specialists evaluate and secure compliance with environmental laws and programs through permitting, self-assessments, audits, inspections, investigations, and enforcement of corrective action activities.

The 6913 Hazardous Waste Disposing occupation covers work involved with identifying, collecting, processing, stabilizing, neutralizing, consolidating, and/or separating hazardous waste in preparation for disposal. This work requires knowledge of hazardous waste identification techniques and safe processing and packaging procedures and an understanding and practical application of environmental rules and practices regarding the full range of hazardous waste material treatment and disposal procedures. Work in this occupation typically requires the basic skill in use of computers to access and retrieve information pertaining to temporary storage and processing of hazardous waste. Most work requires regular or incidental use of motor vehicles, fork lifts, and/or warehouse tugs. In some situations, workers may be required to participate on response teams to control accidental spills or other hazardous material emergency situations.

The appellant's primary duty; i.e., 60 percent of his time, involves pick up and transfer of hazardous waste from all collection points. This involves inspection of containers to ensure structural integrity, compatibility, and proper labeling. He assures that material is placed in the proper locations within the storage facility and maintains the inventory and operating logs and tracks all required paperwork. The position requires a basic knowledge of a variety of chemicals and a familiarity with names and properties of various hazardous waste materials. He must operate a motor vehicle, forklift, and other material-handling devices. The work requires physical efforts to move materials and protective clothing is required.

The record shows that the appellant is not required to enforce corrective actions when faced with incidents of noncompliance, but is advised to refer these issues to the Program Manager for further action. The Program Manager at this facility has jurisdiction over the activities of two additional installations and has oversight responsibility for the development, administration, and coordination of environmental programs and hazardous work management plans at all three sites. The appellant is not tasked with evaluating and securing compliance, enforcing environmental regulations, or implementing or administering environmental programs as envisioned in GS-028 work. The inspection work that he performs is fully covered by the Hazardous Waste Disposer

occupation which requires basic knowledge in the practical application of environmental rules but does not require possession of specialized knowledge of the laws and regulations related to environmental protection activities.

We conclude that the paramount requirement for the job's existence is the performance of work requiring the application of knowledge and experience typical of the FWS. Based on the appellant's duties described earlier, the appellant's work is excluded from the GS and is covered by the FWS. The job is properly allocated to the WG-6913 occupation and titled Hazardous Waste Disposer.

Grade determination

The 6913 Job Grading Standard for Hazardous Waste Disposing identifies four factors: *Skill and Knowledge, Responsibility, Physical Effort, and Working Conditions* for determining grade level. These four factors are addressed below. Although the appellant is required to operate a stake truck and forklift, these duties would not exceed the grade of the Hazardous Waste Disposer work. Therefore, we will not address them further in this decision.

Skill and Knowledge

Hazardous waste disposers at the grade 6 level have detailed knowledge of the methods and procedures required to collect, package, and temporarily store hazardous wastes. They have thorough knowledge of safe handling and temporary storage procedures and of identification and correct labeling of wastes. They have sufficient knowledge to process routine hazardous substances at their facility under the guidance of a supervisor or higher grade disposer. Grade 6 hazardous waste disposers have skill in the operation of equipment such as tugs, forklifts, and motor vehicles used to load, transport, and store hazardous waste. They operate computers to access agency/facility databases for information on hazardous wastes and inventory data. Grade 6 hazardous waste disposers have working knowledge of hazardous materials sufficient to participate on hazardous material response teams involved in emergency and nonemergency cleanup of hazardous spills. They visually examine hazardous waste containers at generation sites for leakage and other indications of deterioration, and make initial identification and assessment of routine wastes to determine their nature.

At the grade 7 level, hazardous waste disposers have detailed knowledge of stabilizing and neutralizing procedures, as well as skill in separating, combining, and transporting hazardous chemicals and substances. They have skill and knowledge in the operation of specialized reclamation equipment and have working knowledge of the chemical characteristics of hazardous waste to ensure safe processing and containment. They have knowledge of specialized container requirements to store and ship a wide variety of hazardous wastes as well as knowledge of a variety of shipping and labeling requirements necessary to repack a wide variety of such materials.

Comparable to the 6 level, the appellant's work primarily involves the collection, transportation, and temporary (90 day) storage of mostly industrial wastes from 49 satellite sites. He performs visual inspections of the hazardous waste containers at the generation sites to check for leakage and other indications of deterioration. He checks to assure materials are properly labeled.

Materials are then transported to the central storage facility and stored in the appropriate area. He completes a monthly inspection of the satellite sites and weekly inspections of the central storage facility. The appellant questions the propriety of a wage system employee responding to 4 of the 18 questions used on the inspection sheet. The four questions pertain to proximity of the site to the point of generation, whether the logs for drums are current and legible, whether the containers are inspected weekly, and whether the work center waste manager and shop workers have proper training. This information should be easily available to the appellant. The inspection sheet is set up to annotate “yes” or “no” answers to questions. If “no” is checked, the form asks for further information about the discrepancy. However, the appellant is not required to enforce corrective actions. Inspection sheets are given to the supervisor for any required action. The appellant collects used petroleum oil from the satellite sites, transports the oil containers to the central storage area and consolidates them into a large storage tank for pick up and eventual recycling. He also picks up expired shelf-life items, primarily paints, adhesives, solvents, and sealers, and consolidates like items for shipment.

Comparable to the 6 level, the appellant has a good working knowledge of Department of Transportation and Resource Conservation and Recovery Act regulations regarding hazardous waste handling and storage. He applies a basic knowledge of a variety of chemicals and is familiar with the nomenclature and properties of various hazardous wastes but does not determine the nature and characteristics of these wastes. Typical of the grade 6 level, the appellant is required to operate a motor vehicle and forklift, as well as operate a computer to access and input inventory data. He will, on occasion, assist a contractor in collecting samples of wastewater, groundwater, air, soil, and containerized solid and liquid wastes. The appellant’s role in this sampling process is described by his supervisor as one of an escort for security measures rather than as an assistant to the contractor collecting the samples. We find this factor most comparable to the 6 level.

The work performed by the appellant does not typically involve the kind of specialized duties described at the grade 7 level. The work that he performs does not require him to determine how to stabilize, neutralize, or separate hazardous waste nor does he operate the specialized equipment needed for these procedures. His work also does not require him to perform initial identification of unknown substances according to identification procedures or to perform specialized and nonstandard processing and disposing procedures. Therefore, this factor is evaluated at the grade 6 level.

Responsibility

At grade 6, hazardous waste disposers receive oral and written instructions from their supervisor. They are required to comply with all regulatory and safety requirements relating to hazardous material processing. WG-6 disposers are responsible for visually examining storage containers for proper labeling and for gross defects. Their work is reviewed in process and upon completion. They are also responsible for referring unknown samples of substances to the appropriate personnel for identification, treatment, and processing. New or unusual work situations are referred to a supervisor or higher grade hazardous waste disposer.

At the grade 7 level, hazardous waste disposers receive assignments from their immediate supervisor. Disposers at this level are responsible for determining the sequence of work

operations and the processing and storing methods to be used. They complete their assignments with little or no technical supervision and make independent decisions in accordance with Federal, State, and local laws and regulations and agency requirements. They are responsible for performing all neutralizing and stabilizing operations in accordance with established written guidelines. The supervisor is available to provide technical direction on new and/or complex processes. Their work is subject to spot checks by the supervisor for conformance with regulations and safety procedures.

The appellant believes that consideration should be given for the degree of independent judgment he uses in making identification determinations and decisions on the methods used in processing and storing hazardous waste. He states that he independently prioritizes and determines the sequence in which his duties are performed. The appellant says that he does not receive instructions, assignments, or guidance from his supervisor and his work is not reviewed in process, or upon completion, by a supervisor or a higher grade hazardous waste disposer which is comparable to grade 7 responsibility.

The appellant's regular and recurring work meets the grade 6 level. Typical of that grade level, he plans and carries out his day-to-day assignments independently in accordance with previous instructions, guidelines, policies, and regulations. He is required to attend formal training once a year in hazardous waste handling and emergency response procedures. Our fact-finding revealed that the procedures for handling hazardous waste materials common to this facility are clearly defined and the guidelines are well established, leaving little, if any, room for interpretation or independent determinations. Comparable to the grade 6 level, the appellant conducts monthly inspections of all satellite storage sites by utilizing the checklist developed to ensure labeling/markings, condition, and location of containers are in accordance with regulations. Any discrepancies in the labeling of containers or other issues of a nonroutine nature are brought to the attention of the Program Manager for resolution. The appellant makes verbal recommendations or proposes remedial alternatives directly to the site coordinators when minor violations or discrepancies are encountered during these monthly inspections, but he is not required to take corrective action or to follow up on his recommendations. He makes note of these incidences of noncompliance and refers them to the Program Manager who is ultimately responsible for enforcement of regulations and oversight of the entire installation.

Because the appellant works under fairly rigid standardized procedures, he is not allowed the flexibility of determining appropriate work methods as found at the grade 7 level. Many of the daily work assignments and their sequencing are determined by data collected and downloaded from the computer system. When complex or questionable situations occur, the appellant reports them to the hazardous waste Program Manager for further action. As previously discussed, the appellant is not required to make independent decisions pertaining to the identity or treatment of hazardous waste nor is he responsible for performing neutralizing and stabilizing operations characteristic at the grade 7 level. Therefore, this factor is evaluated at the grade 6 level.

Physical Effort and Working Conditions

Physical Effort and Working Conditions are identical for all grade levels defined in the job grading standard for the Hazardous Waste Disposer, 6913. Because they do not have grade level impact and the appellant's work meets the levels described in the standard, we will credit both factors as being met and will not address them further.

Decision

The appellant's job is properly graded as Hazardous Waste Disposer, WG-6913-6.