

NATIONAL MAINTENANCE AGREEMENTS POLICY COMMITTEE, INC.

1501 Lee Highway, Suite 202
Arlington, Virginia 22209
Phone: (703) 841-9707

Impartial Secretary/CEO
Stephen R. Lindauer

The following constitutes an official action of the National Maintenance Agreements Policy Committee, Inc.:

Bulletin No. XV – 20 * National Maintenance Agreement

Subject: Article XV – Work Hours Per Day

4-10's Flexible Schedule Interpretations

Since it has been historically understood that the interpretive Questions and Answers associated with 4-10's flexible work week arrangements carry the same weight as an NMAPC Bulletin, the question was raised as to whether the 4-10's Questions and Answers should be incorporated into the NMAPC Book of Decisions.

Conclusion

The Committee determined that since the 4-10's Questions and Answers carry the same weight as an NMAPC Bulletin they should be incorporated into the NMAPC Book of Decisions.

QUESTIONS AND ANSWERS REGARDING THE APPLICATION OF A FOUR (4) DAY WORK WEEK, TEN (10) HOURS PER SHIFT SCHEDULE

- 1. Is there a minimum duration for the implementation of a four (4) day workweek, ten (10) hours per shift schedule?**

ANSWER: Yes – the Committee has determined that two (2) consecutive workweeks are the minimum. (NMAPC Meeting of 11/21/96)

- 2. Must the four (4) day workweek, ten (10) hours per shift schedule be used for the entire project?**

ANSWER: No – this is just another interim shift arrangement and may be utilized in conjunction with other shifts, which may be implemented during the same time on other separate work scope tasks. (Note: This answer is based on the understanding that one or more contractors may be implementing the different shift arrangements.) (NMAPC Meeting of 11/21/96)

- 3. If during the four (4) day work week, ten (10) hours per shift schedule, the crew is rained out or a holiday is encountered, what is the proper rate of pay for the top hourly craft supervisor? Does the individual get the “guaranteed forty (40) hours” provision?**

ANSWER: Yes, the individual receives forty (40) straight time hours of pay between Monday and Thursday. (NMAPC Meeting of 11/21/96)

- 4. If, during this same week, a rain out or holiday is encountered, and there is a make-up day scheduled, what is the appropriate rate of pay for the top hourly craft supervisor for working that make-up day?**

ANSWER: The top hourly craft supervisor will receive the appropriate rate of pay for all hours in excess of forty (40) straight time hours paid. (NMAPC Meeting of 11/21/96)

- 5. If, during this same week, a rain out or holiday is encountered, and there is a make-up day scheduled, what is the appropriate rate of pay for Operating Engineer employees that are provided a guaranteed forty (40) hour work week pursuant to Article VIII, Section 3 of the Operating Engineer's NMA when working that make-up day?**

ANSWER: Operating Engineer employees that are provided a guaranteed forty (40) hour work week pursuant to the Operating Engineers National Maintenance Agreement will receive the appropriate rate of pay for all hours in excess of forty (40) straight time hours paid. (NMAPC Meeting of 10/25/12)

- 6. Can two (2) employers working on the same project, utilize different shift arrangements?**

ANSWER: Yes (NMAPC Meeting of 11/21/96)

- 7. Can a four (4) day workweek, ten (10) hours per shift schedule, be implemented without the approval of the NMAPC, Inc.?**

ANSWER: Yes, See Article XV, Sections 7a. & 7b. (NMAPC Meeting of 11/21/96)

- 8. Can an employer working a four (4) day work week, ten (10) hours per shift schedule, unilaterally change the days involved in the work week? (i.e., Can the employer instruct the employees to report to the project on Tuesday instead of the previously scheduled Monday?)**

ANSWER: No, the original intent of Article XV, Sections 7a. & 7b. is that Monday through Thursday are the only days to be considered as the straight time days to be used for the flexible workweek schedules. Any variations from this would be addressed under Article XXVIII – Addenda to the National Maintenance Agreement and Article XV – Work Hours Per Day, Section 8. (NMAPC Meeting of 11/21/96)

- 9. Is the employer's payroll week or the calendar workweek to be considered when addressing the overtime in excess of forty (40) hours?**

ANSWER: It is the calendar week. (NMAPC Meeting of 11/12/96)

- 10. If an employer changes the scheduled workweek to five (5), six (6), or seven (7) days after a flexible workweek schedule has been implemented, do the provisions of the normal four/ten flexible workweek schedule still apply? (NOTE: This question does not apply to sporadic and unscheduled needs to work five (5), six (6), or seven (7) day workweeks.)**

ANSWER: No, because if the scheduled shift schedule is changed, it ceases to be a flexible workweek schedule as outlined in Article XV, Sections 7a. and 7b. (NMAPC Meeting of 10/27/16)

11. What should be the requirement for notification to change from a flexible workweek schedule?

ANSWER: The unions must be provided a minimum notification of at least three (3) calendar days prior to any change in the flexible workweek schedule. (NMAPC Meeting of 11/21/96)

12. When working a four (4) day workweek, ten (10) hours per shift schedule, and there is a need to work sporadic overtime, when should a second meal break be provided?

ANSWER: When employees are required to work beyond ten (10) hours per day, they shall receive an additional lunch break at the start of the eleventh (11th) hour of pay. (NOTE: See NMAPC Bulletin No. XV-10 for clarification on application of second meal breaks.) (NMAPC Meeting of 11/14/97)

13. During a two-shift, four (4) day workweek, ten (10) hours per shift schedule, one shift is rained out while the other shift works that same day. The employer then schedules Friday as a make-up day, what is the proper pay for both shifts?

ANSWER: Employees will be paid at the appropriate overtime rate of pay for all hours worked in excess of forty (40) straight time hours. (NMAPC Meeting of 11/14/97)

14. The employer is working a four (4) day workweek, ten (10) hours per shift schedule, Monday through Thursday. An employee is dispatched to the work site to begin work on a day other than the first day of the workweek (i.e., Tuesday), and is then required to work on Friday. Friday was not a make-up day in this case; rather it was an additional workday scheduled for that week only, and all other building trades craftsmen were compensated at the appropriate overtime rate. If the employee in question works less than forty (40) hours prior to the Friday workday, is the time worked on Friday paid at straight time or at the appropriate overtime rate?

ANSWER: If the employee works on that Friday, the employee will be paid the appropriate overtime rate for all hours worked on the Friday in question. (NMAPC Meeting of 11/14/97)

15. The employer is working a four (4) day workweek, ten (10) hours per shift schedule, Monday through Thursday. The employer schedules Friday as a make-up day due to inclement weather or a holiday falling during the normal workweek. During the same workweek a new employee begins work on a day other than the first day of the workweek (i.e., Wednesday), and works the balance of the week, including Friday. If the employee in question works on the Friday make-up day, what would be the employee's rate of pay?

ANSWER: Since Friday would be considered as a make-up day at straight time for most of the employees, the new employee who began work on Wednesday would also be paid at straight time for work performed on Friday. (NOTE: This assumes that the new employee continues working the following week(s).) (NMAPC Meeting of 11/9-10/00).

- 16. The employer is working a four (4) day workweek, ten (10) hours per shift schedule, Monday through Thursday. The employer schedules Friday as a make-up day due to inclement weather or a holiday falling during the normal workweek (i.e. Monday). During the same workweek the employer called in (Ref. NMA Article XII) several employees on the day that was not going to be worked, and compensates said employees at the appropriate premium-time wage rate. What is the appropriate rate of pay due to the employees that were called in earlier that week for working the Friday make-up day?**

ANSWER: Since the employees that were called-in were compensated at the appropriate premium-time wage rate for all hours that they worked on their scheduled day off, they would be paid at the straight-time rate of pay for work performed on Friday. Hours worked on a call-in should not be considered as work hours accumulated for the purposes of a 4-10's schedule. (NMAPC Meeting of 10/27/16)

- 17. The employer is working a four (4) day workweek, ten (10) hours per shift schedule, Monday through Thursday involving approximately 200 craftspeople. The project in question is rained out during the workweek (i.e., Monday) however, the contractor works 50 of the 200 employees on this day and then schedules Friday as a make-up day. What would be the appropriate rate of pay for those employees who work on Friday?**

ANSWER: Recognizing that the inclement weather day involved a partial shutdown of the project, if any of the 50 employees who worked on Monday work on Friday they will be paid at the appropriate overtime rate for all hours worked on that day. Any of the employees that did not work on Monday due to inclement weather and who worked Friday as a make-up day would be paid at straight time for all work performed on this day. (NMAPC Meeting of 11/9-10/00)

- 18. When working a four (4) day workweek, ten (10) hours per shift schedule, a craft person is referred out to the project on a day other than the first day of the workweek (i.e., Wednesday). The craft person works ten (10) hours Wednesday, Thursday, Friday (which is a make-up day) and Saturday, an unscheduled workday, at which time he/she is laid off. What is the appropriate pay?**

ANSWER: Hours worked on a Saturday should not be considered as work hours accumulated for the purposes of a 4-10's schedule. Therefore, since the craft person did not work forty (40) scheduled hours prior to being terminated, as outlined in Article XV, Section 7d of the National Maintenance Agreements, the appropriate pay would be eight (8) hours at straight-time and two (2) hours at time and one-half for all hours worked Wednesday through Friday and ten (10) hours at time and one-half for all hours worked on Saturday (NMAPC Meeting of 11/17-18/03).

- 19. What is the appropriate pay when a project that has been working a four (4) day workweek, ten (10) hours per shift schedule for at least two (2) weeks is completed and the craft personnel is laid-off on a day other than at the completion of the shift on Thursday (or Friday in the instance that Friday is a non-premium make-up day)? For example, craft personnel are laid off the following week on a Tuesday, how should they be paid for Monday and Tuesday?**

ANSWER: Although the final workweek contemplated in this scenario constitutes less than forty (40) hours worked, the appropriate pay would be straight-time for all hours worked up to the time of layoff, excluding any hours worked in excess of ten (10) on any day that week (NMAPC Meeting of 11/17-18/03).

20. What is the appropriate pay for work on a Friday when on a project that has been working a four (4) day workweek, ten (10) hours per shift schedule and one of the days, Monday through Thursday, was not completed due to a circumstance beyond the control of the employer, resulting in less than forty (40) straight-time hours being worked Monday through Thursday?

ANSWER:; Where Friday is worked as a straight time make-up day, a minimum of eight (8) hours must be scheduled on Friday to be utilized as a make-up day. The appropriate pay would be at a rate of straight time for all hours up to forty (40), and all hours worked in excess of forty (40) shall be paid at the appropriate overtime rate. Further, the appropriate pay would be at a rate of straight time for all hours up to forty (40), and all hours worked in excess of forty (40) shall be paid at the appropriate overtime rate (NMAPC Meeting of 4/22/08).

Stephen R. Lindauer
Impartial Secretary/CEO



October 27, 2016

APPROVED

Re: NMAPC Meeting of 10-27-16
NMAPC Meeting of 10-25-12
NMAPC Meeting of 6-17-11
NMAPC Meeting of 4-22-08
NMAPC Meeting of 10-26-06