

NATIONAL MAINTENANCE AGREEMENTS POLICY COMMITTEE, INC.

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**Impartial Secretary/CEO
Stephen R. Lindauer**

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

Bulletin XXII – 3 * National Maintenance Agreement

Subject: Article XXII – Lockout and Work Stoppage

Penalty Schedule for Violations of the Lockout and Work Stoppage Provisions

The Committee was requested to strengthen and reinforce the intended application of Article XXII in order to prevent the potential for any lockout or work stoppage under the terms of the National Maintenance Agreements. The Committee recognizes that the overall intent of this Article is to ensure that work performed under the Agreements will not be disrupted for any reason as a result of a violation of this Article. However, the Committee further recognizes that the structure of the NMAPC Program and variations in how the Agreements are implemented on a particular project or site, likewise merits varying degrees of addressing any violations that might possibly occur through the application of a more detailed penalty structure.

Conclusion

The Committee reaffirmed that the intent of Article XXII, as it pertains to any work being performed under the terms of the National Maintenance Agreements at a particular location, is for all parties to recognize that "there shall be no lockout by the Employer and no strikes, picketing, work stoppages, slow downs or other disruptive activity for any reason by the Union or by any employee."

In furtherance of this language, based on the manner in which the National Maintenance Agreements have been implemented or applied to a particular site or project, the Committee determined that a new penalty schedule for violations of this Article needed to be implemented. This schedule provides for stronger commitments by the NMAPC through the potential assessment of increased penalties based on the acknowledged application of the NMAPC "Yellow Card" language to a particular site or project.

In the event that the NMAPC administrative office is advised, in writing, that a work stoppage or lockout exists, a hearing will be scheduled, within twenty-four (24) hours of receipt of the formal notification, in Washington, D.C. The purpose of the hearing is to determine whether or not a violation of Article XXII has occurred. If the permanent Arbitrator determines that a violation has occurred and the work in question has been formally approved as NMAPC "Yellow Card" work the following penalties will be imposed:

- 1. Yellow Card Sites** - This is defined as a site where the Owner has committed to perform all of the work at the site pursuant to the NMAPC "Yellow Card" language through a written request and acknowledgement by the NMAPC. Under this scenario, if the permanent Arbitrator finds the Union in violation of Article XXII, the Union and/or local union shall pay the sum of fifteen thousand dollars (\$15,000.00) in liquidated damages and an additional fifty thousand dollars (\$50,000.00) per shift for each shift thereafter on which the employees have not returned to work. In this instance, the penalties will be assessed retroactively to the first shift and paid to the Owner.

If the permanent Arbitrator finds the Employer in violation of Article XXII on a "Yellow Card" site, the Employer shall pay the sum of fifteen thousand dollars (\$15,000.00) in liquidated damages and an additional fifty thousand dollars (\$50,000.00) per shift for each shift thereafter on which the Employer continues to illegally lockout its employees. In this instance, the penalties will be assessed retroactively to the first shift and paid to the International Union.

2. Yellow Card Projects - This is defined as a project where the Owner, Construction Manager, or Employer has committed to perform all of the work on a designated project within a site, pursuant to the NMAPC "Yellow Card" language through a written request and acknowledgement by the NMAPC. Under this scenario, if the permanent Arbitrator finds the Union in violation of Article XXII, the Union and/or local union shall pay the sum of ten thousand dollars (\$10,000.00) in liquidated damages and an additional twenty thousand dollars (\$20,000.00) per shift for each shift thereafter on which the employees have not returned to work. In this instance, the penalties will be assessed retroactively to the first shift and paid to the Owner, Construction Manager or Employer, depending on who requested the project to be designated as a "Yellow Card" project.

If the permanent Arbitrator finds the Employer in violation of Article XXII on a "Yellow Card" project, the Employer shall pay the sum of ten thousand dollars (\$10,000.00) in liquidated damages and an additional twenty thousand dollars (\$20,000.00) per shift for each shift thereafter on which the Employer continues to illegally lockout its employees. In this instance, the penalties will be assessed retroactively to the first shift and paid to the International Union.

It should be noted that more than one Union and/or Employer might be involved under these circumstances, however; penalties will be assessed against the Union and/or Employer individually, not collectively.

It should be further noted, that those sites/projects that do carry the "Yellow Card" designation remain subject to the language and procedures contained in Article XXII of the National Maintenance Agreements.

Stephen R. Lindauer
Impartial Secretary/CEO



June 17, 2011

APPROVED

Re: NMAPC Meeting of 6-17-11
 NMAPC Meeting of 5-19-04