

QUESTIONS AND ANSWERS
CONCERNING THE
INTERPRETATION AND APPLICATION
OF THE MAY 27, 2007
MEMORANDUM OF AGREEMENT

Section 1 - Track Welding Work

1. Question

Do new employes hired directly into the Welder Foreman, Welder or Welder Helper classifications establish home district seniority rights?

Answer

Yes.

2. Question

Do new employes hired directly into the Welder Foreman, Welder or Welder Helper classifications also establish seniority in the Trackman classification?

Answer

Yes.

3. Question

If a qualified employe exercises seniority pursuant to Rule 4, Section 2 of the June 1, 1999 Agreement to displace a junior Welder Foreman, Welder or Welder Helper from a Zone Gang during the six (6) month "catch and hold" restricted period established in Section 1, Paragraph D, will the senior qualified employe be subject to "catch and hold" restrictions?

Answer

Yes, if the qualified senior employe displaces the junior employe during the junior employe's six (6) month "catch and hold" restricted period then the senior employe will be subject to a new six (6) month "catch and hold" restricted period pursuant to Section 1, Paragraph E. However, if the senior employe displaces the junior employe after the junior employe's six (6) month "catch and hold" restricted period has expired (for example, in the seventh month), then the senior employe will not be subject to "catch and hold" restrictions.

4. Question

If an employe assigned to a “catch and hold” restricted position pursuant to Section 1, Paragraphs D or E is off sick, what effect will that have on the tolling of the six (6) month “catch and hold” period?

Answer

The six (6) month clock continues to run during the employe’s absence.

5. Question

Can the bid/bump lists for Zone Gangs change from year to year?

Answer

Yes, if CSXT chooses to change the Zone boundaries from year to year, the applicable bid/bump lists will change accordingly.

6. Question

What benefits shall accrue to employes assigned to System Gangs established pursuant to the August 23, 2007 Memorandum of Agreement (i.e., System Welding Gangs, System Concrete Tie Pad Gangs, System New Track Construction Gangs)?

Answer

Employes assigned to System Gangs established pursuant to the August 23, 2007 Memorandum of Agreement are entitled to all of the benefits of the System Production Gang Agreement (last updated as of August 22, 2005), specifically including the “bonus pay” contemplated by Section 18, A 2 of the SPG Agreement.

7. Question

If an employe who establishes new seniority in the Welder Foreman or Welder classification pursuant to Section 1, Paragraph D remains in the position for six (6) months and successfully completes classroom training and testing, will that employe be considered qualified under FRA regulations?

Answer

Yes.

Section 3 - Brushcutting and Tree Cutting

8. Question

What craft shall pilot for contractors with herbicide spray trains or trucks?

Answer

BMWED represented employes will be assigned to perform all necessary piloting and/or track protection work for herbicide spray trains or trucks.

9. Question

Where is the measurement taken to determine the girth of a tree?

Answer

Determination of circumference is measured three feet above the ground.

10. Question

May the carrier continue to contract out the work of asphaltting grade crossings that is performed in connection with planned capital budget work by "Production Gangs" if the Production Gang consist drops below ten (10) employes?

Answer

Yes, if the Production Gang is initially established with ten (10) or more employes, but subsequently drops below ten (10) due to no fault of the carrier's (for example, sickness, disability, retirement, exercise of seniority), the carrier may continue to contract grade crossing paving in connection with the work of that Production Gang as long as the carrier is making good-faith efforts to fill the vacant positions. The carrier recognizes it can not combine two smaller groups (for example, two 5-man gangs) to make a 10-man gang.

11. Question

May a contractor who has paved a grade crossing return to the crossing at a later date to remove scrap paving materials?

Answer

Yes, the contractor may return to the crossing to remove scrap paving material, but may not remove OTM.

12. Question

May a portion of a 10-man Production Gang proceed to the next crossing to start work while the remainder of the gang remains behind to finish work on another crossing?

Answer

Yes.

13. Question

When CSXT is permitted to use a contractor to pave a grade crossing pursuant to Section 3, Paragraph A, what is the time frame for the contractor to pave the crossing after the track work in the crossing has been completed by BMWED forces?

Answer

The paving contractor must complete the paving work within a reasonable time after BMWED forces have completed the track work at the crossing. The parties recognize that conditions beyond the control of the contractor and the carrier may sometimes delay work on a crossing on a segment of track being rehabilitated by a Production Gang doing planned capital budget work. For example, government authorities may prohibit simultaneous closings of grade crossings at a particular vicinity. In such instances, if the grade crossing is rehabilitated by BMWED forces within a reasonable time after the Production Gang has completed capital budget work on that segment of track, the contractor may pave the grade crossing.

14. Question

Pursuant to Section 5, Paragraph B, the carrier may contract out concrete tie pad replacement work from January 1 through December 31, 2008 if the carrier has first established a Concrete Tie Pad Replacement Gang staffed with no fewer than twenty (20) BMWED-represented employees. May the carrier continue to contract out concrete tie pad replacement work during this time period if the consist of its own Concrete Tie Pad Replacement Gang drops below twenty (20) BMWED-represented employees?

Answer

Yes, if CSXT's Concrete Tie Pad Replacement Gang is initially established with twenty (20) or more BMWED-represented employees, but subsequently drops below twenty (20) due to no fault of the carrier's (for example sickness, disability, retirement, exercise of seniority), the carrier may continue to contract out concrete tie pad replacement work from January 1 through December 31, 2008 as long as the carrier is making good-faith efforts to fill the vacant positions.

15. Question

May the carrier assign a Concrete Tie Pad Replacement Gang to perform work other than installing concrete tie pads while a contractor is on the property from January 1 through December 31, 2008?

Answer

No, as long as a concrete tie pad contractor is on the property, CSXT's Concrete Tie Pad Replacement Gang may not be assigned to perform other work.

16. Question

May a CSXT Concrete Tie Pad Replacement Gang be assigned to perform other track work when not installing tie pads?

Answer

Yes, however, no contractor may be used to install concrete tie pads during that period.

Section 6 - New Track Construction

17. Question

Pursuant to Section 6, Paragraph A, CSXT may contract out new track construction projects over 3/4 of a continuous mile in length. May CSXT contract out the construction of multiple shorter segments of track at a single location if those segments total more than 3/4 of a mile in length?

Answer

No, CSXT may only contract out new track construction projects over “3/4 of a continuous mile in length” and multiple shorter tracks are not “continuous”. However, the parties recognize that a switch or turnout in a continuous segment of track does not break the continuity and create two shorter segments.

18. Question

In those cases where a contractor is permitted to perform new track construction (i.e., project over 3/4 of a continuous mile), who performs the work necessary to tie the new track into existing tracks?

Answer

Contractors may use their equipment to move large switches (#15, #20 or larger) into place when necessary to tie new track they have constructed into existing track. However, BMWED-represented forces shall perform all other work necessary to tie new track construction into existing tracks, including all other switch installation work.

19. Question

In those instances where a contractor may be used to construct new track (permanent or temporary shoofly) pursuant to Section 6, Paragraph C, who performs the work necessary to tie new track (permanent or temporary shoofly) into existing track or disconnect a temporary shoofly from existing track?

Answer

Irrespective of who has the right to construct new track (permanent or temporary shoofly) in any given circumstance, BMWED-represented forces shall perform all work necessary to connect or disconnect such track from existing CSXT tracks. In those instances where CSXT had the right to assign a contractor to construct a temporary shoofly, the contractor may also dismantle and remove the temporary shoofly once it has been disconnected from existing CSXT tracks by BMWED-represented forces.

20. Question

When a new track construction project over 3/4 of a continuous mile in length extends over a bridge, may a contractor be used to construct the new track on the bridge?

Answer

Yes, but the track construction contractor shall be confined to installing the new track and shall not perform any other work on the bridge.

21. Question

Who shall perform sub-grade work and drainage work in connection with new track construction?

Answer

BMWED-represented forces shall perform the drainage work and contractors may be assigned to perform the sub-grade work.

22. Question

If the Foreman of a two-man gang consisting of the Foreman and a Machine Operator has 707 authority and another gang is assigned to work within the zone covered by the 707 authority, is an Assistant Foreman - Flagman necessary?

Answer

No, both gangs may work within the Foreman's 707 authority.

23. Question

If a contractor is employed by a government agency to paint an overhead highway bridge, may a T&E employe be assigned to flag?

Answer

Yes, for train traffic. However, if other maintenance, construction or demolition work is performed on a highway bridge that has the potential to undermine the integrity of the roadbed or track beneath the highway bridge, then a Track Department Assistant Foreman - Flagman should be assigned.

24. Question

Who should be assigned to perform flagging work in connection with construction, maintenance or demolition work on a railroad bridge?

Answer

In those instances where CSXT determines that a flagman is necessary, a B&B Department Assistant Foreman - Flagman should be assigned except in those situations where the bridge work holds the potential to undermine the integrity of the roadbed or track structure, in which case a Track Department Assistant Foreman - Flagman should be assigned.

25. Question

If a temporary flagging position exists and no one in a lower class is available, how should the position be filled?

Answer

Go to the seniority roster for the senior qualified employe pursuant to Rule 3, Section 4(a) of the June 1, 1999 Agreement.

26. Question

May an employe step down in class to take a temporary flagging position?

Answer

No, see Rule 3, Section 4(a) of the June 1, 1999 Agreement.