

Republic of the Philippines
 Department of Labor and Employment
 National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
 Regional Office No. V
 Legazpi City
WAGE ORDER NO. RB05-10
PROVIDING FOR NEW MINIMUM WAGE RATES IN REGION-V

WHEREAS, under Republic Act No. 6727 (The Wage Rationalization Act), the Regional Tripartite Wages and Productivity Boards (RTWPBs) are mandated by law to rationalize wage fixing in the regions taking into account the prevailing economic conditions;

WHEREAS, RTWPB-V issued Wage Order No. RB05-09 granting wage increase to all covered private sector workers in the region effective 23 August 2004;

WHEREAS, Section 3, Rule IV of NWPC Revised Rules of Procedure on Minimum Wage Fixing provides that any Wage Order issued by the Board may not be disturbed within 12 months from effectivity and no petition for wage increase shall be entertained within the said period, except when there is a supervening condition such as extraordinary increase in prices of petroleum products and basic goods/services which demands a review of minimum wage rates as determined by the Board and confirmed by the National Wages and Productivity Commission (NWPC);

WHEREAS, the Board in its continuing review of the socio-economic factors has determined as confirmed by the NWPC, the existence of a supervening condition in the region characterized by the increases in prices of fuel, basic goods and services, utilities, transport fare hikes, the decline in peso value and the VAT implementation;

WHEREAS, the Board, motu proprio conducted a series of public sectoral consultations/workshop on wage and wage-related issues in the provinces of the region, to wit: Area 1 Camarines Sur and Camarines Norte on 11 May 2005; Area 2 Albay and Catanduanes on 19 May 2005; and Area 3 Sorsogon and Masbate on 25 May 2005;

WHEREAS, the result of said consultations revealed that there is indeed a need to help the lowly paid workers cope with the rising cost of living, without however, hampering the growth of business and industry by granting a cost of living allowance;

WHEREAS, consistent with the governments policy of achieving higher levels of productivity to promote economic growth and generate employment, and to augment the income of workers, there is a need to build the capacity of business enterprises to be competitive through productivity improvement and gain sharing programs;

NOW THEREFORE, the Regional Tripartite Wages and Productivity Board of Region V, by virtue of the power and authority vested under Republic Act No. 6727 otherwise known as the Wage Rationalization Act, hereby issues this Wage Order:

Section 1. AMOUNT OF COST OF LIVING ALLOWANCE. Upon the effectivity of this Order, all minimum wage workers in the private sector in the region, shall receive a Cost of Living Allowance (COLA) in the amount of FIFTEEN PESOS (P15.00). The minimum wage rates in the region shall be as follows:

SECTORS/AREA	Basic Minimum Wage	COLA Under Wage Order No. RB05-10	Minimum Wage Rates
Cities of Legazpi and Naga			
A. NON-AGRICULTURE			
A.1 Establishments			
Employing more than 15 workers	194.00	15.00	209.00
Employing 11-15 workers	179.00	15.00	194.00
Employing not more than 10 workers	159.00	15.00	174.00
A.2 Cottage/Handicraft			
Employing 20 or more workers	169.00	15.00	184.00

Employing less than 20 workers	159.00	15.00	174.00
B. AGRICULTURE			
Plantation	172.00	15.00	187.00
Non-Plantation	152.00	15.00	167.00
Pili, Daraga & Cities of Iriga and Tabaco			
A. NON-AGRICULTURE			
A.1 Establishments			
Employing more than 15 workers	187.00	15.00	202.00
Employing 11-15 workers	172.00	15.00	187.00
Employing not more than 10 workers	154.00	15.00	169.00
A.2 Cottage/Handicraft			
Employing 20 or more workers	162.00	15.00	177.00
Employing less than 20 workers	152.00	15.00	167.00
B. AGRICULTURE			
Plantation	167.00	15.00	182.00
Non-Plantation	147.00	15.00	162.00
All Other Areas			
A. NON-AGRICULTURE			
A.1 Establishments			
Employing more than 15 workers	182.00	15.00	197.00
Employing 11-15 workers	167.00	15.00	182.00
Employing not more than 10 workers	147.00	15.00	162.00
A.2 Cottage/Handicraft			
Employing 20 or more workers	157.00	15.00	172.00
Employing less than 20 workers	147.00	15.00	162.00
B. AGRICULTURE			
Plantation	162.00	15.00	177.00
Non-Plantation	142.00	15.00	157.00

Section 2. COVERAGE. The COLA prescribed in this Order shall apply to all minimum wage earners in the private sector in the region, regardless of their positions, designations or status of employment and irrespective of the method by which their wages are paid.

Excluded from the coverage of this Order are household or domestic helpers, persons employed in the personal service of another including family drivers and workers in registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority pursuant to R.A. 9178.

Section 3. BASIS OF MINIMUM WAGE RATES. The COLA prescribed under this Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 4. PRODUCTIVITY BASED WAGES. In order to sustain rising levels of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes such as time and motion studies, good housekeeping, quality circles, labor management cooperation as well as implement gain-sharing programs., Accordingly, the Board shall provide the necessary studies and technical assistance pursuant to Republic Act No. 6971 or the Productivity Incentives Act of 1990.

Section 5. CREDITABLE WAGE INCREASE. Wage increases granted by an employer within three (3) months before the effectivity of this Order shall be credited as compliance herewith. Where the wage increases granted are less than that prescribed under this Order, the employer shall pay the difference.

Anniversary wage increases provided in collective bargaining agreements, merit wage increases and those resulting from the regularization or promotion of employees shall not be credited as compliance herewith.

Benefits derived from productivity gainsharing schemes shall not be credited as compliance.

Section 6. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of covered workers in the increase in tuition fees for School Year 2005-2006 shall be considered as compliance with the increase prescribed herein. However, payment of any shortfall shall be covered starting School Year 2006-2007. Those which have not increased their tuition fees for the School Year 2005-2006 may defer compliance with the provisions of the Wage Order until the beginning of School Year 2006-2007. In any event, all private educational institutions shall implement the minimum wage rates prescribed herein starting School Year 2006-2007.

Section 7. WORKERS PAID BY RESULTS. All workers paid by results, including those who are paid on piecework, takay, pakyaw or task basis, shall be entitled to receive the prescribed COLA per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

Section 8. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed COLA of the workers shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed COLA, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 9. WAGES OF SPECIAL GROUPS OF WORKERS. Apprentices and learners shall receive not less than seventy-five (75%) of the applicable minimum wage rate prescribed herein. All qualified handicapped workers shall receive the full amount of the minimum wage rate in this Order pursuant to R.A. 7277.

All learnership and apprenticeship agreements entered into before the effectivity of this Order shall be considered automatically modified insofar as their wage clauses are concerned to reflect the new prescribed wage rates.

Section 10. EXEMPTIONS. The following establishments may be exempted from the applicability of this Wage Order upon application with and as determined by the Board in accordance with NWPC Guidelines No. 01, Series of 1996;

- a. Retail/service establishments regularly employing not more than ten (10) workers;
- b. Distressed establishments;
- c. New business enterprises; and
- d. Establishments adversely affected by calamities

All applications for exemption from compliance with this Order shall be filed within seventy-five (75) days from the date of publication of the Rules Implementing the Wage Order.

In the case of New Business Enterprises, applications shall be filed not later than sixty (60) days from the date of registration.

Section 11. EFFECT OF APPLICATION FOR EXEMPTION. An application for exemption duly filed shall have the effect of deferring any action on any complaint for non-compliance with this Order until resolution of the application by the Regional Board.

In case the application for exemption is not approved, covered employees/workers of the applicant-establishment shall be paid the mandated wage rates under this Order plus one (1) percent simple interest per month retroactive to the effectivity of this Order.

Section 12. APPEAL TO THE COMMISSION. Any party aggrieved by this Wage Order may file a verified appeal with the Commission through the Board within ten (10) calendar days from the publication of this Order.

Section 13. EFFECT OF APPEAL. The filing of the appeal does not operate to stay the Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment of the corresponding increase to employees affected by the Order in the event such Order is affirmed.

Section 14. EFFECTS ON EXISTING WAGE STRUCTURE. Where the application of the wage increase prescribed in the Order result in distortion in the wage structure within the establishment it shall be corrected in accordance with the procedure under Art. 124 of the Labor Code, as amended.

Section 15. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with this Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE) and shall be subject of enforcement proceedings under Article 128 of the Labor Code, as amended, without prejudice to criminal prosecution which may be undertaken against those who fail to comply.

Section 16. NON-DIMINUTION OF BENEFITS. Nothing in this Order shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between the workers and employers.

Section 17. PENAL PROVISION. Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed wage increase/allowance/rates in accordance with this Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

Section 18. PROHIBITION AGAINST INJUNCTION. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Board.

Section 19. FREEDOM TO BARGAIN. This Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages with their respective employers.

Section 20. REPORTING REQUIREMENT. Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2006 and every year thereafter in accordance with the form prescribed by the Commission.

Section 21. REPEALING CLAUSE. All orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Wage Order are hereby repealed, amended or modified accordingly.

Section 22. SEPARABILITY CLAUSE. If, for any reason, any section or provision of this Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

Section 23. IMPLEMENTING RULES. The Board shall prepare the necessary rules to implement this Order subject to the approval of the Secretary of Labor and Employment.

Section 24. EFFECTIVITY. This Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the region.

APPROVED: 30 May 2005.

(SGD) **ANTONIO Y. CONCEPCION**
Member, Employers' Representative

(SGD) **LUDOVICO S. RAVIZ**
Member, Labor Representative

(SGD) **MARCELO S. TAN**
Member, Employers' Representative

(SGD) **JOSE P. DIZON**
Member, Labor Representative

(SGD) **MARLENE CA. P. RODRIGUEZ**
Vice-Chairman, NEDA

(SGD) **JOCELYN L.N. BLANCO**
Vice-Chairman, DTI

(Sgd.) **ATTY. ALVIN M. VILLAMOR**
Chairman

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Regional Office No. V
Legazpi City

RULES IMPLEMENTING WAGE ORDER NO. RB05-10
Rule I - General Provisions

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 23 of Wage Order No. RB05-10, the following rules are hereby issued for the guidance and compliance by all concerned.

Section 1. Title. This Rules shall be known as the "Rules Implementing Wage Order No. RB05-10".

Section 2. Definition of Terms.

- a. "Order" means Wage Order No. RB05-10;
- b. "Commission" refers to the National Wages and Productivity Commission;
- c. "Board" refers to the Regional Tripartite Wages and Productivity Board in Region V;
- d. "Department" refers to the Department of Labor and Employment;
- e. "Region V" covers the Provinces of Albay, Camarines Norte, Camarines Sur, Catanduanes, Masbate, Sorsogon and the Cities of Iriga, Legazpi, Ligao, Masbate, Naga, Sorsogon and Tabaco;
- f. "Agriculture" refers to farming in all its branches and among others, includes cultivation and tillage of the soil, production, cultivation, growing and harvesting of any agricultural commodity, dairying, raising of livestock or poultry, the culture of fish and other aquatic products in farms or ponds, and any activities performed by a farmer or on a farm as an incident to or in conjunction with such farming operations but does not include the manufacturing and/or processing of sugar, coconut, abaca, tobacco, pineapple, aquatic or other farm products;
- g. "Plantation Agricultural Enterprise" is one engaged in agriculture with an area of more than 24 hectares in a locality or which employs at least twenty (20) workers. Any other agricultural enterprise shall be considered as "Non-Plantation Agricultural Enterprise";
- h. "Establishment" refers to an economic unit that engages in one or predominantly one kind of economic activity at a single fixed location. For purposes of determining eligibility for exemption, establishments under the same owner but are separately registered with the LGU, SEC, DTI or CDA as the case may be irrespective of their location shall be treated as individual and distinct establishment;
- i. "Barangay Micro Business Enterprise" refers to any business entity registered and issued a Certificate of Authority in accordance with R.A. 9178;
- j. "Distressed Establishment" refers to an establishment which meets the criteria enumerated in the NWPC Guidelines No. 01, Series of 1996;
- k. "New Business Enterprise" refers to establishments, including non-profit institutions, established within two (2) years from the effectivity of the Order based on the latest registration with the appropriate government agency such as LGU, SEC, DTI, or CDA.;
- l. "Establishment adversely affected by calamities" refers to establishment which meet the criteria enumerated in Section 3D of the NWPC Guidelines No. 01, Series of 1996;

- m. "Cottage/Handicraft Establishment" is one engaged in an economic endeavor in which the products are primarily done in the home or such other places for profit which requires manual dexterity and craftsmanship whose capitalization does not exceed P1,500,000.00, pursuant to SMED Council Resolution No. 3, Series of 1995;
- n. "Basic Wage" means all remuneration or earnings paid by an employer to a worker for services rendered on normal working days and hours but does not include cost-of-living allowances, profit-sharing payments, overtime and premium payments, 13th month pay or other monetary benefits which are not considered as part of nor integrated into the regular salary of the employees on the date the Order became effective;
- o. "COLA" refers to the cost of living allowance as provided in the Order;
- p. "Minimum Wage Rate" refers to the lowest wage rate that an employer can pay his worker;
- q. "Wage Distortion" means a situation where the application of the wage increase prescribed results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions embodied in such wage structure based on skills, length of service, or other logical bases of differentiation;
- r. "Capital" means paid-up capital at the end of the last full accounting period in the case of corporations and in the case of partnerships and single proprietorships, total invested capital at the beginning of the accounting period under review.
- s. "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use;
- t. "Service Establishment" is one principally engaged in the sale of services to individuals for their own or household use and is generally recognized as such

Rule II - New Minimum Wage Rates

Section 1. Amount of Cost of Living Allowance. Effective 24 June 2005, all minimum wage workers in the private sector in the region, shall receive a Cost of Living Allowance (COLA) in the amount of FIFTEEN PESOS (P15.00). The new minimum wage rates shall be as follows:

SECTORS/AREA	Basic Minimum Wage	COLA Under Wage Order No. RB05-10	Minimum Wage Rates
Cities of Legazpi and Naga			
A. NON-AGRICULTURE			
A.1 Establishments			
Employing more than 15 workers	194.00	15.00	209.00
Employing 11-15 workers	179.00	15.00	194.00
Employing not more than 10 workers	159.00	15.00	174.00
A.2 Cottage/Handicraft			
Employing 20 or more workers	169.00	15.00	184.00
Employing less than 20 workers	159.00	15.00	174.00
B. AGRICULTURE			
Plantation	172.00	15.00	187.00
Non-Plantation	152.00	15.00	167.00
Pili, Daraga & Cities of Iriga and Tabaco			
A. NON-AGRICULTURE			
A.1 Establishments			
Employing more than 15 workers	187.00	15.00	202.00
Employing 11-15 workers	172.00	15.00	187.00

Employing not more than 10 workers	154.00	15.00	169.00
A.2 Cottage/Handicraft			
Employing 20 or more workers	162.00	15.00	177.00
Employing less than 20 workers	152.00	15.00	167.00
B. AGRICULTURE			
Plantation	167.00	15.00	182.00
Non-Plantation	147.00	15.00	162.00
All Other Areas			
A. NON-AGRICULTURE			
A.1 Establishments			
Employing more than 15 workers	182.00	15.00	197.00
Employing 11-15 workers	167.00	15.00	182.00
Employing not more than 10 workers	147.00	15.00	162.00
A.2 Cottage/Handicraft			
Employing 20 or more workers	157.00	15.00	172.00
Employing less than 20 workers	147.00	15.00	162.00
B. AGRICULTURE			
Plantation	162.00	15.00	177.00
Non-Plantation	142.00	15.00	157.00

Section 2. Coverage - The COLA prescribed in the Order shall apply to all minimum wage earners in the private sector in the region, regardless of their positions, designations or status of employment and irrespective of the method by which their wages are paid.

Excluded from the coverage of the Order are household or domestic helpers, persons employed in the personal service of another including family drivers and workers in registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority pursuant to R.A. 9178.

Section 3. Basis of Minimum Wage Rates - The COLA prescribed herein shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 4. Productivity Based Wages - In order to sustain rising levels of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes such as time and motion studies, good housekeeping, quality circles, labor management cooperation as well as implement gain-sharing programs., Accordingly, the Board shall provide the necessary studies and technical assistance pursuant to Republic Act No. 6971 or the Productivity Incentives Act of 1990.

Section 5. Creditable Wage Increase - Wage increases granted by an employer within three (3) months before the effectivity of the Order shall be credited as compliance. Where the wage increases granted are less than that prescribed under the Order, the employer shall pay the difference.

Anniversary wage increases provided in collective bargaining agreements, merit wage increases and those resulting from the regularization or promotion of employees shall not be credited as compliance herewith.

Benefits derived from productivity gainsharing schemes shall not be credited as compliance.

Section 6. Application to Private Educational Institution - In the case of private educational institutions, the share of covered workers in the increase in tuition fees for School Year 2005-2006 shall be considered as compliance with the increase prescribed herein. However, payment of any shortfall shall be covered starting School Year 2006-2007. Those which have not increased their tuition fees for the School Year 2005-2006 may defer compliance with the provisions of the Wage Order until the beginning of School Year 2006-2007. In any event, all private educational institutions shall implement the minimum wage rates prescribed herein starting School Year 2006-2007.

Section 7. Workers Paid by Results - All workers paid by results, including those who are on piecework, takay, pakyaw, or task basis, shall receive not less than the applicable COLA prescribed under the Order for the normal working hours which shall not exceed eight (8) hours work a day, or a proportion thereof for work of less than the normal working hours.

Section 8. Application to Contractors - In the case of contracts for construction projects and for security and janitorial services, the prescribed COLA shall be borne by the principals or clients of the constructions/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or clients fails to pay the prescribed COLA, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 9. Wages of Special Groups of Workers - Apprentices and learners shall receive not less than seventy-five (75%) of the applicable minimum wage rate prescribed herein. All qualified handicapped workers shall receive the full amount of the minimum wage rate in the Order pursuant to R.A. 7277.

All learnership and apprenticeship agreements entered into before the effectivity of the Order shall be considered automatically modified insofar as their wage clauses are concerned to reflect the new prescribed wage rate.

Section 10. Mobile and Branch Workers - The prescribed minimum wage rates of workers, who by the nature of their work have to travel, shall be those applicable in the domicile or head office of the employer.

The minimum wage rates of workers working in branches or agencies of establishments within the Region shall be those applicable in the place where they are stationed.

Section 11. Transfer of Personnel - The transfer of personnel to areas outside the Region shall not be a valid ground for the reduction of the wage rates being enjoyed by the workers prior to such transfer. The workers transferred to other regions with higher wage rates shall be entitled to the minimum wage rates applicable therein.

Section 12. Appeal to the Commission - Any party aggrieved by the Wage Order may file an appeal with the Commission within ten (10) calendar days from its publication. The Commission shall decide the appeal within sixty (60) calendar days from the date of filing. The appeal shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support of the appeal.

Section 13. Effect of Appeal - The filing of the appeal does not operate to stay the Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment to employees affected by the Order of the corresponding COLA, in the event such Order is affirmed.

Rule III - Exemption

Section 1. Exemption - The following establishments may be exempted from the applicability of the Order upon application with and as determined by the Board, in accordance with the NWPC Guidelines No. 01, Series of 1996.

a. Retail/service establishments regularly employing not more than ten (10) workers provided the following requirements are submitted together with application, to wit:

1. Affidavit from employer stating the following:

- a. It is a retail/service establishment.
- b. It is regularly employing not more than ten (10) workers for at least six months in any calendar year.

2. Business permit for the current year from the appropriate government agency.

b. Distressed establishments as defined under Section 3A of the Rules on Exemption provided the following requirements are submitted together with the application, to wit:

1. Audited financial statements (together with the Auditor's opinion and the notes thereto) for the last two (2) full accounting periods preceding the effectivity of the Order filed with and stamped "received" by the appropriate government agency,
 2. Audited interim quarterly financial statements (together with the Auditor's opinion and the notes thereto) for the period immediately preceding the effectivity of the Order.
- c. New business enterprises established outside export processing zones within two (2) years from effectivity of the Order classified either as establishments with total assets of five million pesos (P5,000,000.00) and below or agricultural establishments whether plantation or non-plantation, provided, that the following requirements shall be submitted together with the application, to wit:
1. Affidavit from employer regarding the following:
 - 1.1 Principal economic activity;
 - 1.2 Date of registration with the appropriate government agency;
 - 1.3 Amount of total assets.
 2. Certificate of registration from the appropriate government agency.
- d. Establishments adversely affected by natural calamities provided the following requirements are submitted together with the application, to wit;
1. Affidavit from the General Manager or Chief Executive Officer of the establishment regarding the following:
 - a. Date and type of calamity,
 - b. Amount of losses/damages suffered as a direct result of the calamity,
 - c. List of properties damaged/lost together with estimated valuation,
 - d. For properties that are not insured, a statement that the same are not covered by insurance;
 2. Copies of insurance policy contracts covering the properties damaged, if any;
 3. Adjuster's report for insured properties, were applicable;
 4. Police and barangay captain's report; and
 5. Audited financial statements for the last full accounting period preceding the effectivity of the Order stamped "received" by the appropriate government agency.

For all categories of exemption, proof of notice of filing of the application to the President of the Union/contracting party if one is organized in the establishment, or if there is no union, a copy of the circular giving general notice of the filing of the application to all the workers in the establishment is required. The proof of notice, which may be in the vernacular, shall state that the workers' representative was furnished a copy of the application with all the supporting documents. The notice shall be posted in a conspicuous place in the establishment.

The Board may likewise require the submission of other documents to support the application for exemption.

An application in three (3) legible copies may be filed with the appropriate Board by the owner/manager or duly authorized representative of an establishment in person or by registered mail. The date of mailing shall be the date of filing. Applications for all categories shall be under oath and accompanied by complete supporting documents and must be filed not later than seventy five (75) days from publication of the approved Implementing Rules. In the case of new business enterprises, applications shall be filed not later than sixty (60) days from the date of registration. No further extension for filing and submission of the required documents shall be allowed.

Section 2. Duration and Extent of Exemption - A full of exemption of one (1) year shall be granted to all categories of establishments that meet the applicable criteria for exemption under Section of NWPC Guidelines No. 01, Series of 1996.

However, a partial exemption of 50% with respect to the amount or period of exemption may be granted only in the case of distressed establishments.

Section 3. Effect of Filing of Application for Exemption - Whenever an application for exemption has been filed with the Board, the Regional Office of the Department shall be duly notified. Pending resolution of the said application, action on any complaint for alleged non-compliance with the Order shall be deferred by the Regional Office of the Department.

Section 4. Effect of Disapproved Application for Exemption - In the event that the application for exemption is not approved, covered workers shall be paid the mandated wage increase/allowance as provided for under the Order retroactive to the date of effectivity of the Order plus simple interest of one percent (1%) per month.

Section 5. Motion for Reconsideration - An aggrieved party may file with the Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from receipt of the decision, stating the particular grounds upon which the motion is based, copy furnished the other party and the Regional Office of the Department.

No second motion for reconsideration shall be entertained in any case. The decision of the Board shall be final and executory unless appealed to the Commission.

Rule IV - Special Provisions

Section 1. Effect on Existing Wage Structure - Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct the distortions through the grievance procedure under their collective bargaining agreement, and if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such disputes shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute is referred to voluntary arbitration.

In cases where there are no collective bargaining agreements or recognized labor unions, the employers and workers shall endeavor to correct such distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board (NCMB) and if it remains unresolved after ten (10) calendar days of conciliation, the same shall be referred to the appropriate branch of the National Labor Relation Commission (NLRB). The NLRB shall conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

The pendency of a dispute rising from wage distortion shall not in any way delay the applicability of any increase prescribed in the Order.

Section 2. Complaints for Non-Compliance - Complaints for non-compliance with the Order shall be filed with the Regional Office of the Department having jurisdiction over the workplace and shall be subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 3. Conduct of Inspection by the Department - The Department shall conduct inspections of establishments, as often as necessary, to determine whether the workers are paid the prescribed wage rates, allowances and other benefits granted by law or any Wage Order. In the conduct of inspection in unionized companies, Department inspectors shall always be accompanied by the president or other responsible officer of the recognized bargaining unit or of any interested union. In the case of non-unionized establishments, a worker representing the workers in the said company will accompany the inspector.

The workers' representative shall have the right to submit his own findings to the Department and to testify on the same if he does not concur with the findings of the labor inspector.

Section 4. Non-diminution of Benefits - Nothing in the Order and this Rules shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and the employers.

Section 5. Penal Provision - Pursuant to the provisions of Section 12 of RA 6727, as amended by RA 8188, any person, corporation, trust, firm, partnership, association or

entity which refuses or fails to pay the prescribed increase in the Order shall be punished by a fine of not less than Twenty-five thousand pesos (P25,000.00) nor more than One hundred thousand pesos (P100,000.00) or imprisonment of not less than two (2) years nor more than four (4) years or both such fine and imprisonment at the discretion of the court. Provided, that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

If the violation is committed by a corporation, trust or firms, partnership, association or any entity, the penalty of imprisonment shall be imposed upon the entity's responsible officers, including but not limited to the president, vice-president, chief executive officer, general manager, managing director or partner.

The employer concerned shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees: Provided, that payment of indemnity shall not absolved the employer from the criminal liability imposed under RA 8188.

Section 6. Prohibition Against Injunction - No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Commission or Boards.

Section 7. Freedom to Bargain - The Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages and flexible working arrangements with their respective employers.

Section 8. Reporting Requirements - Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2006 and every year thereafter in accordance with the form prescribed by the Commission.

Section 9. Repealing Clause - All orders, issuances, rules and regulations on wage, or parts thereof inconsistent with the provisions of the Wage Order and this Rules are hereby repealed, amended or modified accordingly.

Section 10. Separability Clause - If any provision or part of the Order and this Rules, or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of the Order and this Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

Section 10. Effectivity of Rules - This Rules shall take effect on 24 June 2005.

APPROVED: 31 MAY 2005.

(SGD) **MR. ANTONIO Y. CONCEPCION**
Employer Representative

(SGD) **MR. LUDOVICO S. RAVIZ**
Labor Representative

(SGD) **MR. MARCELO S. TAN**
Employer Representative

(SGD) **MR. JOSE P. DIZON**
Labor Representative

(SGD) **DIR. MARLENE CA P. RODRIGUEZ**
Vice Chairman

(SGD) **DIR. JOCELYN LB. BLANCO**
Vice Chairman

(SGD) **ATTY. ALVIN M. VILLAMOR**
Chairman

Approved this 17th day of June, 2005.

(SGD) **PATRICIA A. STO.TOMAS**
DOLE Secretary and NWPC Cahirperson