



WAGE ORDER NO. RB VIII-16

PRESCRIBING A NEW WAGE STRUCTURE AND AN ADDITIONAL COST OF LIVING ALLOWANCE FOR EASTERN VISAYAS

WHEREAS, due to the increases in the prices of oil and fuel products, transportation fares and other basic commodities, the Regional Tripartite Wages and Productivity Board of Eastern Visayas (RTWPB VIII) *motu proprio* conducted public consultations on wages with the labor and management sectors in Ormoc City on March 8, 2011 and a public hearing in Tacloban City on May 11, 2011;

WHEREAS, the result of the consultation and public hearing as well as review of economic indicators has revealed the need to grant relief to the lowly paid workers of Eastern Visayas without impairing the viability of business in the region;

NOW THEREFORE, by virtue of the power and authority vested under Republic Act 6727, known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board, Eastern Visayas (RTWPB VIII) hereby issues this Wage Order.

Section 1. NEW WAGE STRUCTURE FOR EASTERN VISAYAS. Upon the effectivity of this Wage Order, the **EIGHT PESOS (PhP8.00)** Cost of Living Allowance prescribed under Wage Order No. RB VIII-14 shall be integrated into the Basic Pay.

Further, all workers in the private sector in Eastern Visayas receiving the basic wage rates prescribed herein shall receive an additional **FIFTEEN PESOS (PhP15.00)** Cost of Living Allowance in addition to the **TEN PESOS (PhP10.00)** Cost of Living Allowance in Wage Order No. RB VIII-15.

The additional **FIFTEEN PESOS (PhP15.00)** Cost of Living Allowance shall be implemented in two (2) tranches, the first tranche of **TEN PESOS (PhP10.00)** shall take effect upon effectivity of this Order and the second tranche of **FIVE PESOS (PhP5.00)** shall take effect on September 1, 2011.

The new wage structure for Region VIII shall now be as follows:

Sector/Industry	Minimum Wage Rates upon Effectivity	Cost of Living Allowance			New Daily Minimum Wage Rates	
		Under Wage Order No. RB VIII-15	Under Wage Order No. RB VIII-16		Upon Effectivity of this Order	Effective September 1, 2011
			Upon Effectivity of this Order	Effective September 1, 2011		
NON-AGRICULTURE	228.00	10.00	10.00	5.00	248.00	253.00
COTTAGE/HANDICRAFT	206.00	10.00	10.00	5.00	226.00	231.00
RETAIL SERVICE Employing 10 workers and below	197.00	10.00	10.00	5.00	217.00	222.00
AGRICULTURE (NON-SUGAR)	209.00	10.00	10.00	5.00	229.00	234.00
SUGAR INDUSTRY Mills	230.00	10.00	10.00	5.00	250.00	255.00

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Plantation	203.00	10.00	10.00	5.00	223.00	228.00
Non-Plantation	188.50	10.00	10.00	5.00	208.50	213.50

Section 2. BASIS OF NEW WAGE STRUCTURE AND COLA. The Minimum Wage Rates prescribed under this Order shall be for the normal working hours, which shall not exceed eight (8) hours a day.

Section 3. COVERAGE OF THE NEW WAGE STRUCTURE AND COLA. The new minimum wage rates prescribed under this Order shall be applicable to all covered workers under Section 1 hereof regardless of their position, designation or status.

Excluded from the coverage of this Wage Order are household or domestic helpers, persons in the personal service of another, including family drivers, and workers in duly registered Barangay Micro Business Enterprises with Certificates of Authority pursuant to Republic Act 9178.

Section 4. 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 new minimum wage rates per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours a day.

Section 5. WAGES AND COLA OF SPECIAL GROUPS OF WORKERS. The minimum wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed herein.

All recognized 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 prescribed minimum wage rates and COLA prescribed herein.

Section 6. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2011-2012 shall be considered as compliance with the wage increase prescribed herein. However, payment of any shortfall in the wage increase set forth herein shall be covered starting School Year 2012-2013.

Private educational institutions which have not increased their tuition fees for School Year 2011-2012 may defer compliance with the minimum wage prescribed herein until the beginning of School Year 2012-2013.

In any case, all private educational institutions shall implement the minimum wage prescribed herein starting School Year 2012-2013.

Section 7. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increase under this Order 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 increase, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 8. 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 9. EFFECT OF FILING OF APPEAL. The filing of the appeal does not 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.

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Section 10. CREDITABLE WAGE INCREASES. Wage Increases provided granted by an employer in an organized establishment within three (3) months prior to the effectivity of the Order shall be credited as compliance with the prescribed allowance set forth therein, provided that an agreement to this effect has been forged between the parties or a provision in the Collective Bargaining Agreement allowing creditability exists. In the absence of such an agreement or provision in the CBA, any increase granted by the employer shall not be credited as compliance with the increase prescribed in this Order

In case the increases given are less than the prescribed allowance, the employer shall pay the difference. Such increases shall not include anniversary increases, merit wage increases and those resulting from the regularization of employees.

Section 11. EFFECTS ON EXISTING WAGE STRUCTURE. Where the application of the new minimum wage rates results in the distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Art. 124 of the Labor Code as amended.

Section 12. 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 the 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 13. 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 14. PENAL PROVISION. Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed wage increase in accordance with this Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

Section 15. 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 16. FREEDOM TO BARGAIN This Order shall not be construed to prevent workers in particular firms, enterprises or industries from bargaining for higher wages with their respective employers.

Section 17. 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, 2012 and every year thereafter in accordance with the form prescribed by the National Wages and Productivity Commission.

Section 18. REPEALING CLAUSE. All orders, issuances, rules and regulations, or parts thereof inconsistent with the provision of this Wage Order are hereby repealed, amended or modified accordingly.

Section 19. 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 20. 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 21. EFFECTIVITY. This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the Region.

Approved this 11th day of May 2011 at Tacloban City.



ORLANDO C. UY
Employers' Representative



MIGUEL T. TEZON
Workers' Representative



EFREN M. GABRIOLA
Workers' Representative



BUENAVENTURA C. GO-SOCO, JR.
Vice-Chair, NEDA



CYNTHIA R. NIERRAS
Vice-Chair, DTI



FORTER G. PUGUON
Chairman

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
National Wages and Productivity Commission
Regional Tripartite Wages and Productivity Board
Regional Board No. VIII

Rules Implementing Wage Order No. RB VIII-16

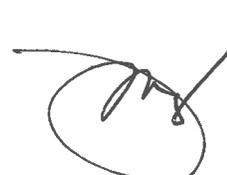
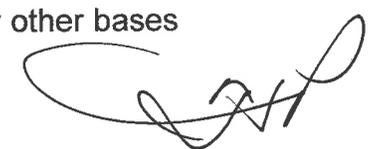
Pursuant to Section 6, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 20 of Wage Order No. RB VIII-16 the following rules are hereby issued for the guidance and compliance of all concerned.

Rule 1 – General Provisions

Section 1. Title. This Rules shall be known as the “Rules Implementing Wage Order No. RB VIII-16.”

Section 2. Definition of Terms. As used in this Rules.

- a) “**Order**” refers to Wage Order No. RB VIII-16;
- b) “**Regional Board**” refers to the Regional Tripartite Wages and Productivity Board of Region VIII;
- c) “**Commission**” refers to the National Wages and Productivity Commission;
- d) “**Department**” refers to the Department of Labor and Employment;
- e) “**Region VIII**” covers the Provinces of Leyte, Southern Leyte, Biliran, Samar, Eastern Samar, Northern Samar and the Cities of Tacloban, Ormoc, Maasin, Catbalogan, Baybay, Borongan and Calbayog;
- f) “**DTI**” refers to the Department of Trade and Industry;
- g) “**CDA**” refers to the Cooperative Development Authority;
- h) “**SEC**” refers to the Securities and Exchange Commission;
- i) “**Minimum Wage Rates**” refers to the lowest wage rates that an employer can pay his workers, as fixed by the Regional Board;
- j) “**Wage Distortion**” refers to the situation where an increase in prescribed wage rates 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 in such wage structure based on skills, length of service, or other bases of differentiation;



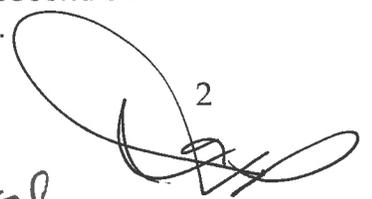
- k) **“CBA”** refers to the negotiated contract between a legitimate labor organization and the employer concerning wages, hours of work, and all other terms and conditions of employment in a bargaining unit, including mandatory provisions for grievance and arbitration machineries;
- l) **“Agriculture”** refers to farming in all its branches and among others, includes the cultivation and tillage of the soil, production, cultivation, growing and harvesting of any agricultural or horticultural commodities, 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, pineapple, aquatic or other farm products;
- m) **“Plantation Agricultural Enterprise”** refers to one engaged in agriculture with an area of more than 24 hectares in a locality or which employs at least 20 workers. Any other agricultural enterprise shall be considered as “Non-Plantation Agricultural Enterprise”;
- n) **“Retail Establishment”** refers to one principally engaged in the sale of goods to end-users for personal or household use. A retail establishment that regularly engages in wholesale activities loses its retail character;
- o) **“Service Establishment”** refers to one principally engaged in the sale of service to individuals for their own household and is generally recognized as such;
- p) **“Cottage/Handicraft Establishment”** refers to 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 and/or whose capitalization does not exceed PhP1,500,000.00 regardless of previous registration with the defunct NACIDA.

Rule II. New Minimum Wages

Section 1. New Wage Structure for Eastern Visayas. Upon the effectivity of this Wage Order, the **EIGHT PESOS (PhP8.00)** Cost of Living Allowance prescribed under Wage Order No. RB VIII-14 shall be integrated into the Basic Pay.

Further, all workers in the private sector in Eastern Visayas receiving the basic wage rates prescribed herein shall receive an additional **FIFTEEN PESOS (PhP15.00)** Cost of Living Allowance in addition to the **TEN PESOS (PhP10.00)** Cost of Living Allowance in Wage Order No. RB VIII-15.

The additional **FIFTEEN PESOS (PhP15.00)** Cost of Living Allowance shall be implemented in two (2) tranches, the first tranche of **TEN PESOS (PhP10.00)** shall take effect upon effectivity of this Order and the second tranche of **FIVE PESOS (PhP5.00)** shall take effect on September 1, 2011.



The new wage structure for Region VIII shall now be as follows:

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Non-Plantation	188.50	10.00	10.00	5.00	208.50	213.50

Section 2 Basis of the New Wage Structure and COLA. The Minimum Wage Rates under this Order shall be for the normal working hours, which shall not exceed eight (8) hours a day.

Section 3. Coverage. The prescribed wage increase under this Order shall be applicable to all private sector minimum wage workers in the Eastern Visayas regardless of their position, designation or status of employment and irrespective of the method by which their wages are paid except:

- a) Household or domestic helpers, including family drivers and workers in the personal service of another pursuant to Article 143 of the Labor Code of the Philippines as amended by Republic Act 7655;
- b) Workers in duly registered Barangay Micro Business Enterprises with Certificates of Authority pursuant to Republic Act 9178.

Section 4. Exemption. No exemption from compliance under this Wage Order shall be allowed.

Section 5. Creditable Wage Increase. Wage Increases granted by an employer in an organized establishment within three (3) months prior to the effectivity of the Order shall be credited as compliance with the prescribed increase set forth therein, provided that an agreement to this effect has been forged between the parties or a provision in the Collective Bargaining Agreement (CBA) allowing creditability exists. In the absence of such an agreement or provision in the CBA, any increase granted by the employer shall not be credited as compliance with the increase prescribed in this Order.

Clearance

In unorganised establishments, wage increases granted by the employer within three (3) months prior to the effectivity of the Order shall be credited as compliance.

In case the increases given are less than the prescribed increase, the employer shall pay the difference. Such increases shall not include anniversary increases, merit wage increases and those resulting from the regularization of employees.

Section 6. Application to Private Educational Institutions. In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2011-2012 shall be considered as compliance with the wage increase prescribed herein. However, payment of any shortfall in the wage increase set forth herein shall be covered starting School Year 2012-2013.

Private educational institutions which have not increased their tuition fees for School Year 2011-2012 may defer compliance with the minimum wage prescribed herein until the beginning of School Year 2012-2013.

In any case, all private educational institutions shall implement the minimum wage prescribed herein starting School Year 2012-2013.

Section 7. Application to Contractors. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed minimum wage rates under this Order 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 minimum wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 8. 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 not less than the prescribed wage rates per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours a day.

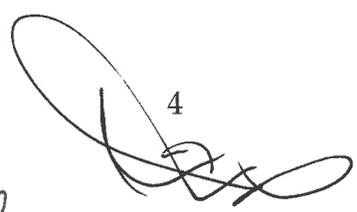
The adjusted rates for workers paid by results shall be computed in accordance with the following steps:

- a. $\left[\frac{\text{New AMW-Previous AMW}^*}{\text{Previous AMW}^*} \right] 100 = \% \text{ increase}$
- b. Existing rate/piece X % increase = Increase in rate/piece;
- c. Existing rate/piece + Increase in rate/piece = Adjusted rate/piece

* Where AMW is the applicable minimum wage rate.

The wages of workers who are paid by results shall continue to be established in accordance with Article 101 of the Labor Code, as amended and its implementing regulations.

Section 10. Wages of Special Groups of Workers. The daily minimum wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed herein.



All recognized 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 minimum wage rates prescribed herein.

All qualified handicapped workers shall receive the full amount of the minimum wage rate prescribed herein pursuant to Republic Act No. 7277, otherwise known as the Magna Carta for Disabled Persons.

Section 11. Suggested Formula in Determining the Equivalent Monthly Rates. Without prejudice to existing company practices, agreements or policies, the following formula may be used as guides in determining the equivalent monthly rates:

- a. For those who are required to work everyday including Sundays or rest days, special days and regular holidays:

Equivalent

$$\text{Monthly Rate (EMR)} = \frac{\text{Applicable Daily Rate (ADR)} \times 393.50 \text{ days}}{12 \text{ months}}$$

Where 393.50 days:

298 days	-	Ordinary working days
24 days	-	12 regular holidays X 200%
67.60 days	-	52 rest days X 130%
<u>3.90 days</u>	-	3 special days X 130%
393.50 days	-	Total equivalent number of days

- b. For those who do not work but are considered paid on rest days, special days and regular holidays:

$$\text{EMR} = \frac{\text{ADR} \times 365 \text{ days}}{12 \text{ months}}$$

Where 365 days:

298 days	-	Ordinary working days
52 days	-	Sundays/Rest days
12 days	-	Regular holidays
<u>3 days</u>	-	Special days
365 days	-	Total equivalent number of days

- c. For those who do not work and are not considered paid on Sundays or rest days:

$$\text{EMR} = \frac{\text{ADR} \times 313 \text{ days}}{12 \text{ months}}$$

Where 313 days:

298 days	-	Ordinary working days
12 days	-	Regular holidays
<u>3 days</u>	-	Special days
313 days	-	Total equivalent number of days

- d. For those who do not work and are not considered paid on Saturdays and Sundays or rest days:

$$\text{EMR} = \frac{\text{ADR} \times 261 \text{ days}}{12 \text{ months}}$$

Where 261 days:

246	days	-	Ordinary working days
12	days	-	Regular holidays
<u>3</u>	<u>days</u>	-	Special days
261	days	-	Total equivalent number of days

Section 12. Mobile and Branch Workers. The statutory minimum wage rates of workers who by 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 13. 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 the other regions with higher wages shall be entitled to the minimum wage rates applicable therein.

Rule III – 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 dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time such dispute was 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 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 Relations Commission (NLRC). The NLRC 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 arising 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 the subject of enforcement proceedings under Article 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 new minimum wage rates 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

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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 in this Rules shall be construed to reduce any existing wage rates, allowances and other benefits of any form under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and 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 (PhP25,000.00) nor more than One hundred thousand pesos (PhP100,000.00) 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.

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

If the violation is committed by a corporation, trust or firm, 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.

Section 8. 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 9. 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 10. Reporting Requirement. Any 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, 2012 and every year thereafter in accordance with the form prescribed by the Commission.

Section 11. Repealing Clause. All orders, issuances, rules and regulation on wages, or parts thereof inconsistent with the provisions of the Order and this Rules are hereby repealed, amended or modified accordingly.

Section 12. 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

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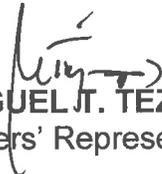
application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

Section 13. Effectivity of Rules. This Rules shall take effect upon effectivity of the Order.

Done in Tacloban City this 17th day of May 2011


ORLANDO C. UY
Employers' Representative


EFREN M. GABRIOLA
Workers' Representative


MIGUEL J. TEZON
Workers' Representative


BUENAVENTURA C. GO-SOCO, JR.
Vice-Chairperson, NEDA


CYNTHIA R. NIERRAS
Vice-Chairperson, DTI


FORTER G. PUGUON
Chairperson

APPROVED: This 1st day of June, 2011.


ROSALINDA DIMAPILIS-BALDOZ
Secretary
Department of Labor and Employment