

Republic of the Philippines  
Department of Labor and Employment  
**REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD**  
Region 10, Northern Mindanao

**WAGE ORDER NO. RX-15**

Prescribing New Minimum Wage Rates in Region X

**WHEREAS**, the Regional Tripartite Wages and Productivity Board - X (RTWPB-X), is mandated under The Wage Rationalization Act (RA 6727), to periodically assess the wage rates and conduct continuing studies in the determination of the minimum wage applicable in the Region;

**WHEREAS**, RTWPB-X issued Wage Order No. RX-14 and granted a P12 COLA per day;

**WHEREAS**, on **March 4, 2010**, the Trade Union Congress of the Philippines (TUCP) filed with the Board a petition for a P75 across the board increase in wages region wide;

**WHEREAS**, in response to the petition and after thorough evaluation of the socio-economic condition of the region, taking into account the current state of affairs, e.g. power supply crisis and intermittent but incessant changes in weather condition affecting the regional economy, the Board mindful of the circumstances, decides to provide assistance to the workers to cope with the rising cost of living without adversely affecting business viability.

**WHEREAS**, considering the result of the series of sectoral consultations and the public hearing conducted last July 22, 2010, the Board finds it necessary to grant an adjustment in the minimum wage in recognition of the workers right to a decent standard of living without depriving the management to a reasonable return of investment.

**WHEREAS**, it is imperative for workers to get a just share of the fruits of their labor and to promote business sustainability which is anchored on the principle of shared responsibility thus, achieving higher levels of productivity and economic growth;

**NOW, THEREFORE**, by virtue of the power and authority vested under Republic Act No. 6727, the Regional Tripartite Wages and Productivity Board of Region 10 hereby issues this Wage Order:

**Section 1. INTEGRATION OF COST OF LIVING ALLOWANCE (COLA).** Upon the effectivity of this Wage Order, the cost of living allowance of TWELVE PESOS (P12.00) granted under Wage Order No. RX - 14 is hereby integrated to the basic wage.

**Section 2. AMOUNT OF MINIMUM WAGE INCREASE.** Effective October 1, 2010, the minimum wage rates for all covered workers and employees in Region X shall be increased by THIRTEEN PESOS (P13.00) per day.

**Section 3. NEW MINIMUM WAGE RATES.** Upon effectivity, the new minimum daily wage rates of covered workers and employees in the private sector in Region X shall be as follows:

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**UPON EFFECTIVITY:**

CLASSIFICATION	NON-AGRICULTURE	AGRICULTURE
	NEW MINIMUM WAGE RATE	NEW MINIMUM WAGE RATE
Wage Category I	<b>P256.00</b>	<b>P244.00</b>
Wage Category II	<b>251.00</b>	<b>239.00</b>
Wage Category III	<b>246.00</b>	<b>234.00</b>
Wage Category IV	<b>241.00</b>	<b>229.00</b>

**EFFECTIVE** October 1, 2010:

CLASSIFICATION	NON-AGRICULTURE			AGRICULTURE		
	BASIC WAGE	WAGE INCREASE	NEW MINIMUM WAGE RATE	BASIC WAGE	WAGE INCREASE	NEW MINIMUM WAGE RATE
Wage Category I	P256.00	P13.00	<b>P269.00</b>	P244.00	P13.00	<b>P257.00</b>
Wage Category II	251.00	13.00	<b>264.00</b>	239.00	13.00	<b>252.00</b>
Wage Category III	246.00	13.00	<b>259.00</b>	234.00	13.00	<b>247.00</b>
Wage Category IV	241.00	13.00	<b>254.00</b>	229.00	13.00	<b>242.00</b>

Wage Category I	Cities of Cagayan de Oro and Iligan, and the Municipalities of Tagoloan, Villanueva and Jasaan;
Wage Category II	Cities of Malaybalay, Valencia, Gingoog, El Salvador and Ozamiz, and the Municipalities of Maramag, Quezon, and Manolo Fortich;
Wage Category III	Cities of Oroquieta and Tangub, and the Municipalities of Lugait, Opol and Mambajao;
Wage Category IV	All other areas not covered under the above Categories;
Wage Category V	The Sugar Agricultural Industry.

**WAGE CATEGORY V. SUGAR AGRICULTURAL INDUSTRY.** Increases in the Sugar Industry is hereby deferred pending results of consultations to be conducted by the Board for the purpose.

**Section 4. COVERAGE.** The wage increase prescribed herein shall apply to all minimum wage earners in the private sector in the region, regardless of their position, designation or status and irrespective of the method by which their wages are paid.

This Wage Order shall not cover household or domestic helpers, persons in the personal service of another, including family drivers, and workers in registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority.

**Section 5 BASIS OF MINIMUM WAGE.** The minimum wage rates prescribed under this Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

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**Section 6. PRODUCTIVITY BASED WAGES.** In order to sustain rising levels of wages and enhance competitiveness, businesses are 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 7. CREDITABLE WAGE INCREASE.** All wage increases granted to workers within three (3) months prior to the effectivity of this Wage Order shall be credited as compliance with this Order. Where such increases are less than the prescribed adjustment, the employer shall pay the difference.

Such creditable increases shall not include anniversary wage increases, merit increases and those resulting from the regularization or promotion of employees.

**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 minimum wage rates per eight hours of work a day, or a proportion thereof for work less than eight (8) hours.

**Section 9. WAGES OF SPECIAL GROUPS OF WORKERS.** Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed in this Order.

All recognized learnership and apprenticeship agreements approved by TESDA and 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.

All qualified handicapped workers shall receive the full amount of increase in this Order pursuant to RA 7277.

**Section 10. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.** In the case of private educational institutions, the share of covered workers and employees in the increase of tuition fees for school year 2010-2011 shall be considered as compliance with the increases prescribed herein. However, any shortfall in the basic wage set forth herein shall be paid starting school year 2011-2012.

Private educational institutions which have not increased their tuition fees for school year 2010-2011 may defer compliance with the provisions of this Wage Order until the beginning of school year 2011-2012.

In any case, all private educational institutions shall implement the increase prescribed herein starting school year 2011-2012.

**Section 11. APPLICATION TO CONTRACTORS.** In the case of contracts for construction projects, security, janitorial and similar services, their wages shall be automatically adjusted in accordance with this Order. The adjustment in the wage rates shall be borne by the principal of the construction/service contractor and the contract shall be deemed amended accordingly.

In the event, however, that the principal fails to pay the prescribed increase, the construction/service contractor shall be jointly and severally liable.

**Section 12. EXEMPTIONS.** Upon application with and as determined by the Board in accordance with the National Wages and Productivity Commission

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Guidelines No. 02, Series of 2007 (The Amended Rules on Exemption), the following maybe exempted from the applicability of this Wage Order:

- a. Retail/Service establishment employing not more than ten (10) workers;
- b. Distressed establishment;
- c. New business enterprises (NBEs);
- d. Establishments whose total assets, including those arising from loans, but exclusive of the land on which the particular business entity's office, plant and equipment are situated, are not more than Three Million Pesos (P3,000,000.00);
- e. Establishments adversely affected by natural calamities;
- f. Establishments producing handcrafted gift items using indigenous materials.

**Section 13. EFFECT OF APPLICATION FOR EXEMPTION.** An application for exemption duly filed shall have the effect of deferring any action in any complaint for non-compliance with the Order until the 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 increase under this Wage Order plus one percent (1%) interest per month retroactive to the effectivity of this Wage Order.

**Section 14. 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.

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 the employees affected by the Order in the event such Order is affirmed.

**Section 15. EFFECTS ON EXISTING WAGE STRUCTURE.** Where the application of the increase in the wage rates under this Order results in distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Article 124 of the Labor Code, as amended.

**Section 16. COMPLAINTS FOR NON-COMPLIANCE.** Complaints for non-compliance with this Wage Order shall be filed before the Regional Office of the Department of Labor and Employment (DOLE) or any of its Provincial Extension Offices 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 17. NON-DIMINUTION OF BENEFITS.** Nothing in this Wage Order shall be construed to reduce any existing wage rates, allowances and benefits in any form under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between the workers and employers.

**Section 18. PENAL PROVISION.** Any person, entity or employer who refuses or fails to pay the prescribed minimum wage in accordance with this Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

**Section 19. 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.

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**Section 20. FREEDOM TO BARGAIN.** This Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages and/or benefits with their respective employers.

**Section 21. 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, 2011 and every year thereafter in accordance with the form prescribed by the Commission.

**Section 22. 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 23. SEPARABILITY CLAUSE.** If, for any reason, any section or provision of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

**Section 24. IMPLEMENTING RULES.** The Board shall issue the necessary rules to implement this Wage Order subject to the approval of the Secretary of Labor and Employment.

**Section 25 . EFFECTIVITY.** This Wage Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the region.

**APPROVED,** July 23, 2010, Cagayan de Oro City, Philippines.

  
**ARSENIO L. SEBASTIAN III**  
Management Representative

  
**JOSE B. ARES**  
Labor Representative

  
**PRUDENCIO T. PLAZA, JR.**  
Management Representative

  
**MILBERT M. MACARAMBON**  
Labor Representative

  
**LEON M. DACANAY, JR.**  
Vice-Chairperson,  
Regional Director, NEDA-X

  
**ALICIA V. EUSEÑA**  
Vice-Chairperson  
Regional Director, DTI-X

  
**ATTY. ALAN M. MACARAYA, CEO III**  
Chairperson, RTWPB-X  
Regional Director, DOLE-X

**JUSTIFICATION FOR THE ADDITIONAL EXEMPTION CATEGORIES IN THE  
LATEST WAGE ORDER (W.O. RX-15) OF NORTHERN MINDANAO**

With reference to Section 2 of NWPC Guidelines No. 02, Series of 2007, on the Amended Rules on Exemption, this Regional Board – X respectfully submits the following strong justification for the retention of two exemptible categories under Wage Order No. RX - 14, to wit:

**Additional Exemption Categories:**

- d. Establishments whose total assets, including those arising from loans, but exclusive of the land which the particular business entity's office, plant and equipment are situated, are not more than Three Million Pesos (P3,000,000.00)
  
- f. Establishments producing handcrafted gift items using indigenous materials.

**Reasons:**

- a. For letter (d) above mentioned, this was already added in Wage Order RX- 13, and is maintained because of the current economic situation and especially in these times of rampant power supply shortage affecting the operation of concerned establishments, thereby giving them time to recoup with their finances.

This is to address the constant increases of cost of goods and commodities and operational costs of the business sectors since some establishments in Northern Mindanao can no longer compete and provide workers with adequate living wage for everyday sustenance. Yet, despite economic instability, establishments pursued to keep the business and continue operating while negotiating for better terms with consumers as well as continue with legal cost reduction schemes.

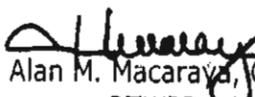
- b. For letter (f) above mentioned, i.e. *Salay Handmade Paper Industries, Inc.* (SHAPII), a producer and exporter of handmade paper located in the fourth class municipality of Salay, Misamis Oriental, is a fair trader with a niche only in the international market. The said establishment is at a disadvantaged due to stiff competition with other countries, such as China's high production volume and cheaper products, thereby adversely affecting the establishment's business.

SHAPII's volume production is dependent upon its transactions in International Trade Fairs. One of the requirements for the traders to be in the mainstream of fair trading is compliance to laws, i.e. Minimum Wage Law and non-compliance of any applicable laws will disqualify the traders to bid. SHAPII is labor intensive and wants to keep the employment of the workers but cannot qualify under any of the existing exemptible categories of the Wage Order and neither can it qualify for BMBE registration as its asset is more than Three Million Pesos.

Hence, in an effort to promote local handicraft products and safeguard the workers and the business, it is included in the exemptible categories thereby fostering sustainable export environment and business viability.

FOR APPROVAL.

Submitted:

  
Atty. Alan M. Macaraya, CEO III  
Chairperson, RTWPB - X

July 29, 2010

Republic of the Philippines  
Department of Labor and Employment  
**REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD**  
Region X, Northern Mindanao

**RULES IMPLEMENTING WAGE ORDER NO. RX-15**  
Prescribing New Minimum Wage Rates in Region X

Pursuant to Section 6, Rule IV of the NWPC Amended Rules of Procedure on Minimum Wage Fixing, and Section 24 of Wage Order No. RX-15, the Regional Tripartite Wages and Productivity Board Region-X hereby issues the following rules for the guidance and compliance by all concerned:

**Rule I**  
**PRELIMINARY PROVISIONS**

**Section 1. TITLE.** This Rules shall be known as "The Rules Implementing Wage Order No. RX-15.

**Section 2. DEFINITION OF TERMS.**

- a. *Order* refers to Wage Order No. RX-15;
- b. *Commission* refers to the National Wages and Productivity Commission;
- c. *Department* refers to the Department of Labor and Employment;
- d. *Board* refers to the Regional Tripartite Wages and Productivity Board of Region-X;
- e. *Region X* covers the Provinces of Bukidnon, Camiguin, Misamis Occidental, Misamis Oriental and Lanao del Norte, and the Cities of Cagayan de Oro, El Salvador, Iligan, Gingoog, Oroquieta, Ozamis, Tangub, Malaybalay and Valencia;
- f. *Establishment* refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location;
- g. *Distressed Establishment* refers to an establishment which meets the criteria enumerated under Section 3(A) of NWPC Guidelines No. 02 Series of 2007;
- h. *Barangay Micro Business Enterprise (BMBE)* refers to any business entity or enterprise issued with a Certificate of Authority under RA 9178;
- i. *Basic Wage* means the remuneration or earnings, however designated, capable of being expressed in terms of money, whether fixed or ascertained on a time, task, piece, or commission basis, or other methods of calculating the same, which is payable by an employer to an employee under a written or unwritten contract of employment and includes the fair and reasonable value, of board, lodging, or other facilities customarily furnished by the employer to the employee but does not include cost of living allowances, profit sharing payments, premium payments, 13<sup>th</sup> month pay and other monetary benefits which are not considered as part of or integrated into the regular salary of the workers;
- j. *COLA* means cost of living allowance;
- k. *Wage Distortion* means a situation where an application of the prescribed wage increase 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;

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- i. *Capital* refers to paid-up capital at the end of the last full accounting period, in the case of corporations or total invested capital at the beginning of the period under review, in the case of partnerships and single proprietorships;
- m. *Full Accounting Period* refers to a period of twelve (12) months or one year of business operations;
- n. *Deficit* refers to the negative balance of the retained earnings account of a corporation. Retained earnings represent the cumulative balance of periodic earnings, dividend distributions, prior period adjustments and other capital adjustments;
- o. *New Business Enterprises* refers to establishments, including non-profit institutions, established within two (2) years from effectivity of Wage Order No. RX-15 based on the latest registration with the appropriate government agency such as SEC, DTI, CDA and the Mayor's Office;
- p. *Agriculture* refers to farming in all its branches and 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 activity 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, tobacco, pineapple, or other farm products.

**RULE II  
NEW MINIMUM WAGE RATES**

**Section 1. INTEGRATION OF COST OF LIVING ALLOWANCE (COLA).** Effective August 22, 2010, the cost of living allowance of TWELVE PESOS (P12.00) granted under Wage Order No. RX - 14 is hereby integrated to the basic wage.

**Section 2. AMOUNT OF MINIMUM WAGE INCREASE.** Effective October 1, 2010, the minimum wage rates for all covered workers and employees in Region X shall be increased by THIRTEEN PESOS (P13.00) per day.

**Section 3. THE NEW MINIMUM WAGE RATES.** Upon effectivity, the new minimum daily wage rates of covered workers and employees in the private sector in Region X shall be as follows:

**Effective August 22, 2010:**

CLASSIFICATION	NON-AGRICULTURE	AGRICULTURE
	NEW MINIMUM WAGE RATE	NEW MINIMUM WAGE RATE
Wage Category I	<b>P256.00</b>	<b>P244.00</b>
Wage Category II	<b>251.00</b>	<b>239.00</b>
Wage Category III	<b>246.00</b>	<b>234.00</b>
Wage Category IV	<b>241.00</b>	<b>229.00</b>

**EFFECTIVE October 1, 2010:**

CLASSIFICATION	NON-AGRICULTURE			AGRICULTURE		
	BASIC WAGE	WAGE INCREASE	NEW MINIMUM WAGE RATE	BASIC WAGE	WAGE INCREASE	NEW MINIMUM WAGE RATE
Wage Category I	P256.00	P13.00	<b>P269.00</b>	P244.00	P13.00	<b>P257.00</b>
Wage Category II	251.00	13.00	<b>264.00</b>	239.00	13.00	<b>252.00</b>
Wage Category III	246.00	13.00	<b>259.00</b>	234.00	13.00	<b>247.00</b>
Wage Category IV	241.00	13.00	<b>254.00</b>	229.00	13.00	<b>242.00</b>

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Wage Category I	Cities of Cagayan de Oro and Iligan, and the Municipalities of Tagoloan, Villanueva and Jasaan;
Wage Category II	Cities of Malaybalay, Valencia, Gingoog, El Salvador and Ozamiz, and the Municipalities of Maramag, Quezon, and Manolo Fortich;
Wage Category III	Cities of Oroquieta and Tangub, and the Municipalities of Lugait, Opol and Mambajao;
Wage Category IV	All other areas not covered under the above Categories;
Wage Category V	The Sugar Agricultural Industry.

**WAGE CATEGORY V. SUGAR AGRICULTURAL INDUSTRY.** Increases in the Sugar Industry is hereby deferred pending results of consultations to be conducted by the Board for the purpose.

**Section 4. COVERAGE.** The wage increase prescribed herein shall apply to all minimum wage earners in the private sector in the region regardless of their position, designation or status and irrespective of the method by which their wages are paid.

This Wage Order shall not cover household or domestic helpers, persons in the personal service of another including family drivers and workers in registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority.

**Section 5. BASIS OF MINIMUM WAGE.** The minimum wage rates prescribed under this wage order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

**Section 6. PRODUCTIVITY BASED WAGES.** In order to sustain rising levels of wages and enhance competitiveness, businesses are 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 7. CREDITABLE WAGE INCREASE.** All wage increases granted to workers within three (3) months prior to the effectivity of Wage Order No. RX-15 shall be credited as compliance with the Order, provided where such increases are less than the prescribed adjustment, the employer shall pay the difference.

Such creditable increases shall not include anniversary wage increases, merit increases and those resulting from the regularization or promotion of employee.

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

The Adjusted Minimum Wage (AMW) rates for workers paid by results shall be computed in accordance with the following steps:

a. $\frac{\text{Amount of Increase in AMW}}{\text{Previous AMW}} \times 100 = \% \text{ Increase}$
b. Existing Rate/Piece x % Increase = Increase in Rate/Piece
c. Existing Rate/Piece + Increase in rate/Piece = Adjusted Rate/Piece

The wage rate 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 9. WAGES OF SPECIAL GROUPS OF WORKERS.** Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed by this Wage Order.

All recognized learnership and apprenticeship agreements approved by

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TESDA and entered into before the effectivity of this Order shall be considered as automatically modified in so far as their wage clauses are concerned to reflect the new prescribed wage rates.

All qualified handicapped workers shall receive the full amount of increase in this Order pursuant to RA 7277.

**Section 10. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.** In the case of private educational institutions, the share of covered workers and employees in the increase of tuition fees for school year 2010-2011 shall be considered as compliance with the increases prescribed herein. However, payment of any shortfall in the wage increase set forth herein shall be covered starting school year 2011 - 2012.

Private educational institutions which have not increased their tuition fees for school year 2010 - 2011 may defer compliance with the provisions of this Wage Order until the beginning of school year 2011-2012.

In any case, all private educational institutions shall implement the increase prescribed herein starting school year 2011-2012.

**Section 11. APPLICATION TO CONTRACTORS.** In the case of contracts for construction projects, security, janitorial and similar services, their wages shall be automatically adjusted in accordance to this Order. The prescribed increases in the wage rates of the workers shall be borne by the principal of the contractor and the contract shall be deemed amended accordingly.

In the event, however, that the principal fails to pay the prescribed wage rates, the construction/service contractor shall be jointly and severally liable.

**Section 12. SUGGESTED FORMULAE IN DETERMINING THE EQUIVALENT MONTHLY REGIONAL MINIMUM WAGE RATES:**

**I. For Non-Muslim Areas** (Cities of Cagayan de Oro, Gingoog, Oroquieta, Ozamis, Tangub, Malaybalay and Valencia, and Provinces of Bukidnon, Camiguin, Misamis Occidental and Misamis Oriental):

**a. For those who are required to work everyday including Sundays or Rest Days, Special Days and Regular Holidays:**

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 393.5 \text{ days}}{12}$$

Where **393.50 days:**

- 298 days = Ordinary working days
- 24 days = 12 Regular Holidays x 200%
- 67.60 days = 52 Rest Days x 130%
- 3.90 days = 3 Special Days x 130%
- 393.5 days = Total number of days/year

**b. For those who do not work but are considered paid on Rest Days, Special Days and Regular Holidays:**

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

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Where **365 days:**

- 298 days = Ordinary working days
- 52 days = Sundays/Rest Days
- 12 days = Regular Holidays
- 3 days = Special Days
- 365 days = Total number of days/year

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

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

Where **313 days:**

- 298 days = Ordinary working days
- 12 days = Regular Holidays
- 3 days = Special Days (if worked x 130%)
- 313 days = total number of days/year

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

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

Where **261 days:**

- 246 days = Ordinary Working days
- 12 days = Regular Holidays
- 3 days = Special Holidays (if worked x 130%)
- 261 days = Total number of days/year

## II. For Muslim Areas (City of Iligan and Province of Lanao del Norte)

**a. For those who are required to work everyday including Sundays or Rest days, Special days, Regular holidays and Muslim Legal holidays:**

$$EMR = \frac{ADR \times 396.5 \text{ days}}{12 \text{ months}}$$

Where **396.5 days:**

- 295 days = Ordinary Working days
- 24 days = 12 Regular Holidays x 200%
- 6 days = 3 Muslim Holidays x 200%
- 67.6 days = 52 Rest Days x 130%
- 3.9 days = 3 Special Days x 130%
- 396.5 days = Total number of days/year

**b. For those who do not work but are considered paid on Rest days, Special days and Regular holidays and Muslim Legal holidays:**

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

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Where **365 days:**

295 days = Ordinary Working days  
12 days = Regular Holidays  
3 days = Muslim Holidays  
52 days = Sundays/Rest Days  
3 days = Special Days  
365 days = Total number of days/year

**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:**

295 days = Ordinary Working days  
12 days = Regular Holidays  
3 days = Muslim Holidays  
3 days = Special Days  
313 days = Total number of days/year

**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:**

243 days = Ordinary Working days  
12 days = Regular Holidays  
3 days = Muslim Holidays  
3 days = Special Days  
261 days = Total number of days/year

**Section 13. MOBILE AND BRANCH WORKERS.** The 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 14. 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 wage rates shall be entitled to the minimum wage rate applicable therein.

**Section 15. APPEAL TO THE COMMISSION.** Any party aggrieved by this Wage Order may file an appeal with the Commission within ten (10) calendar days from the publication of the Order. 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.

The filing of 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 increase, in the event such Order is affirmed.

## RULE III EXEMPTION

**Section 1. WHO MAY BE EXEMPTED.** Upon application and as determined by the Board in accordance with the NWPC Guidelines No. 02, Series of 2007, the following maybe exempted from the applicability of this Order:

- a. Retail/Service establishment employing not more than ten (10) Workers;
- b. Establishments whose total assets, including those arising from loans, but exclusive of the land on which the particular business entity's office, plant and equipment are situated, are not more than Three Million Pesos (P3,000,000.00);
- c. Distressed establishment;
- d. New business enterprises (NBEs);
- e. Establishments adversely affected by natural calamities;
- f. Establishments producing handcrafted gift items made of indigenous materials.

**Section 2. CRITERIA FOR EXEMPTION.** In order to determine whether an applicant establishment is qualified for exemption, the following are the criteria:

**A. Retail/Service establishments employing not more than 10 workers**

1. It is engaged in the retail sale of goods and/or services to end users for personal or household use.
2. It is regularly employing not more than ten workers regardless of status, except the owner/s, for at least six months in any calendar year.

**B. Distressed Establishments**

1. For Corporations/Cooperatives

a. Full Exemption

- a.1. When the deficit, as defined in Sec. 2 (N) of Rule I, as of the last full accounting period immediately preceding the effectivity of the Order amounts to 20% or more of the paid-up capital for the same period; or
- a.2. When an establishment registers capital deficiency i.e., negative stockholders' equity, as of the last full accounting period immediately preceding the effectivity of the Order.

b. Partial Exemption

- b.1. When the deficit, as defined in Sec. 2 (N) of Rule I, as of the last full accounting period immediately preceding the effectivity of the Order amounts to at least 10% but less than 20% of the paid-up capital for the same period.

c. Conditional Exemption

- c.1. When the actual net loss as of the interim period immediately preceding the effectivity of the Order amounts to at least 25% of total assets.

2. Single Proprietorships/Partnerships

a. Full Exemption

- a.1. When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review; or
- a.2. When an establishment registers capital deficiency i.e., negative net worth as of the last full accounting period immediately preceding the effectivity of the Order.

b. Partial Exemption

- b.1. When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to at least 10% but less than 20% of the total invested capital at the beginning of the period under review.

c. Conditional Exemption

- c.1. When the actual net loss as of the interim period immediately preceding the effectivity of the Order amounts to at least 25% of total assets.

3. Non-Stock Non-Profit Organizations

a. Full Exemption

- a.1. When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the

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period, or

a.2. When an establishment registers capital deficiency i.e., negative fund balance/members' contribution as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order.

b. Partial Exemption

b.1. When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to at least 10% but not more than 20% of the fund balance/members' contribution at the beginning of the period.

c. Conditional Exemption

c.1. When the actual net loss as of the interim period immediately preceding the effectivity of the Order amounts to at least 25% of total assets.

4. Banks and Quasi-Banks

a. Under Receivership/Liquidation

Exemption may be granted to a bank or quasi-bank under receivership or liquidation when there is a certification from the Bangko Sentral ng Pilipinas that it is under receivership or liquidation as provided in Section 30 of RA 7653, otherwise known as the New Central Bank Act.

b. Under Controllership/Conservatorship

A bank or quasi-bank under controllership/ conservatorship may apply for exemption as a distressed establishment under Section 2A of this Rule

5. Establishments Under Corporate Rehabilitation

Exemption may be granted to corporations, partnerships and associations under corporate rehabilitation when there is an order from a court of competent jurisdiction that it is under rehabilitation as provided in Section 6 Rule IV of the Interim Rules of Procedure on Corporate Rehabilitation (2000).

**C. New Business Enterprises**

Exemption may be granted to New Business Enterprises located outside the National Capital Region and Export Processing Zones and established within two years from effectivity of the Order, classified under any of the following:

1. Agricultural Establishments whether Plantation or Non-Plantation
2. Establishments with Total Assets after financing of 5 million and below

**D. Establishment whose Total Assets including those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, are not more than P3 Million.**

1. Its total assets during the current year of effectivity of the Order amounts to not more than Three Million Pesos (P3,000,000.00)
2. Total Assets refer to all kinds of properties, real or personal used for the conduct of business, including proceeds of loans, but excluding the land on which the particular business entity's office, plant and equipment are situated.
3. Establishment is not registered as a Barangay Micro Business Enterprise.

**E. Establishments adversely affected by Natural Calamities**

1. The establishment must be located in an area declared by a competent authority as under a state of calamity.
2. The natural calamities, such as earthquakes, lahar flow, typhoons, volcanic eruptions, fire, floods and similar occurrences, must have occurred within 6 months prior to the effectivity of the Order.
3. Losses suffered by the establishment as a result of the calamity that exceed the insurance coverage should amount to 20% or more of the stockholders' equity as of the last full accounting period in the case of corporations and cooperatives, total invested capital in the case of partnerships and single proprietorships and fund balance/members' contribution in the case of non-stock non-profit organizations.

Only losses or damage to properties directly resulting from the calamity and not incurred as a result of normal business operations shall be considered.

4. Where necessary, the Board or its duly-authorized representative shall conduct an ocular inspection of the establishment or engage the services of experts to validate the extent of damages suffered.

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**F. Establishments producing Handcrafted Gift Items using Indigenous materials as certified to by the proper government agency.**

1. The establishment is producing Handcrafted Gift Items;
2. Using Indigenous Materials;
3. It is Labor Intensive.

**Section 3. SUPPORTING DOCUMENTS.** In addition to the above requirements, the following supporting documents shall be submitted together with the application:

**For All Categories of Exemption**

All applications for exemption must be supported by proof of notice to the Union President (in case the establishment is organized) or a copy of the circular giving general notice to all workers (if there is no union), that an application for exemption from compliance with this Wage Order has been filed with the Board. The proof of notice shall state that the workers' representative was furnished a copy of the application with all the supporting documents. The notice shall be duly acknowledged by the union or the workers' representative of the unorganized establishment and shall be posted in a conspicuous place in the establishment.

**A. For Retail/Service Establishments employing not more than ten (10) workers:**

1. *Affidavit* from the employer stating the following:
  - a. It is a retail/service establishment;
  - b. It is regularly employing not more than 10 workers for at least 6 months in any calendar year;
  - c. Number of employees with its corresponding names and date of employment.
2. *Business Permit* for the current year from the appropriate government agency

**B. For Distressed Establishments:**

1. Corporations, Cooperatives, Single Proprietorships, Partnerships, Non-Stock, Non-Profit Organizations:
  - a. Full or Partial Exemption: *Audited Financial Statements* (together with Auditor's opinion and the notes thereto) for the last 2 full accounting periods preceding the effectivity of the Order filed with and stamped "received" by the appropriate government agency.
  - b. Conditional Exemption: *Audited Financial Statements* (together with Auditor's Opinion and the notes thereto) for the last full accounting period and interim quarterly financial statements for the period immediately preceding the effectivity of the Order filed and stamped received by the appropriate government agency, to be submitted within 30 days from the lapse of the one year exemption period.
2. Banks and Quasi-Banks
  - a. *Certification from Bangko Sentral ng Pilipinas* that it is under receivership/liquidation.
3. For establishments under Corporate Rehabilitation
  - a. *Order from a court of competent jurisdiction* that the establishment is under rehabilitation.

**C. For New Business Enterprises:**

1. *Affidavit* from employer regarding the following:
  - a. Principal Economic Activity;
  - b. Date of Registration with appropriate government agency;
  - c. Amount of Total Assets;
2. *Certificate of Registration* from the appropriate government agency

**D. Establishments whose total assets, including those arising from loans, but exclusive of the land on which the particular business entity's office, plant and equipment are situated, are not more than Three Million Pesos (P3,000,000.00):**

1. *Affidavit* of the employer stating its total asset (real or personal property) during the current year of effectivity of this Order;

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2. Copy of the latest *Income Tax Return*;
3. *Current Business Permit*

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

**E. For establishments Adversely Affected by Natural Calamities:**

1. *Affidavit* from the General Manager or Chief Executive Officer of the establishment regarding the ff:
  - 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;
4. *Audited Financial Statements* for the last full accounting period preceding the effectivity of the Order stamped received by the appropriate government agency.

**F. Establishments producing handcrafted gift items made of indigenous materials:**

1. *Affidavit* from employer stating the following:
  - a. Nature and description of business/economic activity;
  - b. Number of male and female employee/workers;
  - c. Total Assets;
2. *Certification from the Export Development Council* that the applicant company is an exporter producing handcrafted gift items made of indigenous materials;
3. *Current Business Permit*.

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

**Section 4. DURATION AND EXTENT OF EXEMPTION.**

- A. Full Exemption of **one (1) year** from effectivity of the Order shall be granted to all categories of establishments that meet the applicable criteria for exemption under Section 3 A of the NWPC Guidelines No. 2, series of 2007.
- B. Partial Exemption of **50%** from effectivity of the Order with respect to the amount or period of exemption shall be granted only in the case of **distressed establishments** under Section 3 A of the NWPC Guidelines No. 2, series of 2007.
- C. Conditional exemption of **one (1) year** from effectivity of the Order shall be granted only in the case of distressed establishments under Section 3 A of the NWPC Guidelines No. 2, series of 2007. The conditional exemption shall be confirmed, as follows:
  - c.1. For Corporations  
When deficit as defined in Section I (N) of the Amended Rules of Exemption, as of the last full accounting period amounts to 20% or more of the paid-up capital for the same period;
  - c.2. For Single Proprietorships And Partnerships  
When net loss for the last two full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review;
  - c.3. For Non-Stock, Non-Profit Organizations  
When net loss for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period.  
In the absence of such actual losses, the company shall pay its workers the wage increases due them under the Order, retroactive to the effectivity of the Order.

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D. In the case of **New Business Enterprises** established within 2 years from the effectivity of this Wage Order and has been granted exemption by the Board, in the event that there will be a new Wage Order issued within the duration of the NBE's one year exemption, the NBE will apply the wage rate of the new Wage Order but only up to the expiration of the exemption.

**Section 5. EFFECT OF FILING AN APPLICATION FOR EXEMPTION.** Whenever an application for exemption has been duly filed with the Board, action on any complaint for alleged non-compliance with the Order shall be deferred by the Regional Office of the Department.

**Section 6. EFFECT OF DISAPPROVED APPLICATION.** In the event that an 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 7. PROCEDURES ON EXEMPTION.**

#### **A. Filing of Application**

1. 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 deemed as the date of filing.

Applications for exemption filed with the DOLE regional, district or provincial offices are considered filed with the appropriate Board in the region.

2. Applications for all categories shall be filed not later than seventy five (75) days from publication of the approved implementing rules of the Order, provided that all the required documents in support of the application must be filed within the said 75-day filing period and that no further extension of filing and submission of required documents shall be allowed.

In the case of NBEs, applications shall be filed not later than sixty (60) days after date of registration.

3. The application shall be under oath and accompanied by complete supporting documents as enumerated under Section 4 of NWPC Guidelines 02 series of 2007.

#### **B. Filing of Opposition**

Any worker or, if unionized, the union in the applicant establishment, may file with the appropriate Board within fifteen (15) days from receipt of the notice of the filing of the application, an opposition to the application for exemption stating the reasons why the same should not be approved, furnishing the applicant a copy thereof. The opposition shall be in three (3) legible copies, under oath and accompanied by pertinent documents, if any.

#### **C. Filing of Motion for Reconsideration**

The aggrieved party may file with the Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from its receipt and shall state the particular grounds upon which the motion is based, copy furnished the other party and the DOLE Regional Office concerned.

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.

#### **D. Filing of Appeal to the Commission**

1. Appeal - Any party aggrieved by the decision of the Board may file an appeal to the Commission, through the Board, in two (2) legible copies, not later than ten (10) days from date of receipt of the decision.

The appeal, with proof of service to the other party, shall be accompanied with a memorandum of appeal which shall state the date appellant received the decision, the grounds relied upon and the arguments in support thereof.

The appeal shall not be deemed perfected if it is filed with any office or entity other than the Board.

2. Grounds for Appeal - An appeal may be filed on the following grounds:

1. Non-conformity with the prescribed guidelines and/or procedures on exemption;
2. Prima facie evidence of grave abuse of discretion on the part of the Board; or

3. Questions of law.
3. Opposition - The appellee may file with the Board his reply or opposition to the appeal within ten days from receipt of the appeal. Failure of the appellee to file his reply or opposition shall be construed as waiver on his part to file the same.

#### **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 such 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 said 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 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 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 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.

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 absolve the employer from the criminal liability imposable under the Act.

If the violation is committed by a corporation, trust or firm, partnership, association or any other 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 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 Board.

**Section 7. FREEDOM TO BARGAIN.** The Order shall not be construed to prevent any party from granting or bargaining higher wages, benefits and flexible working arrangements.

**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, 2011 and every year thereafter in accordance with the form prescribed by the Commission.

**Section 9. REPEALING CLAUSE.** All orders, issuances, rules and regulations on wages, or parts thereof inconsistent with the provisions of the Wage Order and these Rules are hereby repealed, amended or modified accordingly.

**Section 10. SEPARABILITY CLAUSE.** If any provision or part of the Order and these Rules, is declared unconstitutional, or in contrast with existing laws, the other provisions or parts thereof shall remain valid.

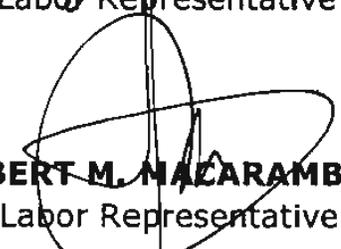
**Section 11. EFFECTIVITY.** This Rules shall take effect on **August 22, 2010.**

**APPROVED, August 2, 2010, Cagayan de Oro City, Philippines.**

  
**ARSENIO L. SEBASTIAN III**  
Management Representative

  
**JOSE B. ARES**  
Labor Representative

  
**PRUDENCIO T. PLAZA, JR.**  
Management Representative

  
**MILBERT M. MACARAMBON**  
Labor Representative

  
**LEON M. DACANAY, JR.**  
Vice-Chairperson,  
Regional Director, NEDA-X

  
**ALICIA V. EUSEÑA**  
Vice-Chairperson  
Regional Director, DTI-X

  
**ATTY. ALAN M. MACARAYA, CEO III**  
Chairperson, RTWPB-X  
Regional Director, DOLE-X

Approved: This 8th of September 2010.

  
**ATTY. ROSALINDA D. BALDOZ**  
Secretary

Department of Labor and Employment

 Dept. of Labor & Employment  
Office of the Secretary



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