

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD-XI
Davao City

WAGE ORDER NO. RTWPB-XI-04
INCREASING THE STATUTORY MINIMUM WAGE RATE IN REGION XI

WHEREAS; Pursuant to the mandate under Section 1 of Wage Order No. RTWPB-XI-03 to periodically assess the effects thereof for the purpose of modifying the same should it be deemed necessary and also taking into consideration the petitions of various labor and management sectors in the Region;

WHEREAS; The Regional Tripartite Wages and Productivity Board of Region XI (RTWPB-XI) has conducted public consultations and workshops on wages, incomes and productivity on October 12, 1994 in Davao City, October 14, 1994 in General Santos City, October 18, 1994 in Tagum, Davao Province and October 20, 1994 a Workshop between Labor and Management in Davao City;

WHEREAS; Based on the consultations and workshop conducted this Board has determined the need to modify Wage Order No. RTWPB-XI-03 to provide the workers and their families immediate relief measures to enable them to cope with the rising cost of living without impairing the viability of business and industry at the same time controlling unemployment within tolerable limits considering the varying economic and living conditions in the region and creating a favorable investment climate;

NOW, THEREFORE, by virtue of the powers and authority vested under Republic Act No. 6727 otherwise known as the Wage Rationalization Act of 1990, the Regional Tripartite Wages and Productivity Board of Region XI (RTWPB-XI) hereby issues this Wage Order:

Section 1. Upon the effectivity of this Wage Order, the Cost of Living Allowance (COLA) granted under Wage Order No. RTWPB-XI-03 is now repealed and in lieu thereof, the statutory minimum wage applicable to all workers and employees in the private sector in Region XI shall be increased by FIFTEEN PESOS (P15.00) per day;

(A) All recognized learnership and apprenticeship agreements shall be considered automatically modified insofar as their wage clauses are concerned to reflect the prescribed minimum wage adjustment.

Section 2. The applicable minimum wage increase for teaching and non-teaching personnel in private educational institutions shall take effect at the beginning of school year 1995-96, provided that the existing COLA of TWENTY FIVE PESOS (P25.00) shall continue to be enforced up to May, 1995;

Section 3. Exemptions:

(A). Automatic Exemptions. Exempted from the provisions of this Wage Order are household or domestic helpers and persons in the personal service of another, including family drivers.

(B). Upon Proper Application. The following establishments maybe exempted from the applicability of this Wage Order upon application with the RTWPB-XI in accordance with the applicable rules/regulations and guidelines issued by the Regional Board and the Commission, to wit:

1. Retail/Service establishments regularly employing not more than TEN (10) employees;
2. Distressed establishments in accordance with the guidelines issued by the Commission, series of 1992 (NWPC Guidelines No. 01);
3. Non-stock and non-profit institutions, like hospitals, asylum, orphanages, schools and similar institutions;
4. New Business Enterprises (NBE) that may be established in Region XI after the effectivity of this Wage Order whose operations or investment need initial assistance but not more than ONE (1) year from the effectivity of this Wage Order;
5. Countryside Barangay Business Establishment (CBBE) that maybe established in Region XI after the effectivity of this Wage Order but not more than one (1) year from the effectivity of this Wage Order.
6. Industries whose revenues are regulated by law. They shall be required to comply with this Wage Order immediately upon approval of an adjustment in their rates by the concerned government agency but not later than SIX (6) months from the effectivity hereof.

Provided that establishments granted rate adjustments by the appropriate government agency during the THREE (3) month period immediately preceding the issuance of this Wage Order shall comply with the minimum adjustments contained herein on the date this Wage order takes effect.

7. Export oriented enterprises where at least FIFTY PERCENT (50%) of its production is exported. Exporting firms, including indirect exporters with existing forward contracts with their foreign buyers/principals at the time of effectivity of this Wage Order may be exempt during the lifetime of the said contract but not to exceed TWELVE (12) months from the effectivity of this Wage Order.
8. Labor intensive industries where labor cost is at least THIRTY PERCENT (30%) of production cost.

Section 4. Duration of Exemption.

(A) Whenever application for exemption has been fully filed with the Regional Board, action on any complaint for alleged non-compliance with this Wage Order shall be deferred pending resolution of the application for exemption by the Regional Board. The Regional Board has the option whether to grant FULL OR PARTIAL EXEMPTION to such establishments. The duration shall be for a maximum period of ONE(1) year only.

(B) In the event that the application for exemption is not granted including those establishments who failed to file an application for exemption, the employees in such establishments shall pay the appropriate compensation/minimum wage due them as provided for

under this Wage Order plus interest of ONE PERCENT (1%) per month retroactive to the effectivity of this Wage Order.

(C) Establishments who were granted exemption under Wage Order No. RTWPB-X1-03 shall no longer be exempted under this Wage Order except when they qualify under Section 3 (B) hereof.

Section 5. In case of contracts for construction projects, security, janitorial and similar services allowable by the Labor Code, as amended, the prescribed minimum wage adjustment 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 the principal or client. Should the principal or client be exempted from the provisions of this Wage Order, the workers and employees of the contractors shall also be exempted from the applicability of this Wage Order.

Section 6. All workers paid by results, including those who are paid on piecework, takay, pakyao or task basis, shall be entitled to receive the prescribed minimum wage adjustment per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

Section 7. Where the application of the prescribed minimum wage rate under this Wage Order results in distortions of the wage structure within an establishment, such distortion shall be corrected using the procedure as specified under Article 124 of the Labor of the Philippines as amended.

Section 8. Any employer who refuses or fails to pay the minimum wage increase provided under this Wage Order shall be subject to the penalties specified in Section 12 of RA 6727.

Section 9. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid. Nothing in this Wage Order shall be construed to reduce any existing wage rates, allowances or other benefit under existing laws, decrees, issuances, executive order and/or under any contract or agreement between workers and employers.

Section 10. The Regional Board shall promulgate the necessary rules and regulations to implement the provisions of this Wage Order.

Section 11. This Wage Order shall take effect January 1, 1995 or FIFTEEN (15) days following its complete publication in at least one (1) newspaper of general circulation in the Region.

Approved 10 December 1994, Davao City, Philippines.

(SGD) ENGR. MERLY M. CRUZ
DTI-XI Regional Director
RTWPB-XI Vice Chairman

(SGD) DIR. SANTIAGO G. ENGINCO
NEDA-XI Regional Director
RTWPB-XI Vice Chairman

(SGD) ATTY. ELIEZER TANLAPCO
Management Representative
RTWPB-XI, Member

(SGD) ATTY. BIENVENIDO D. CARIAGA
Management Representative
RTWPB-XI, Member

Refused To Sign

Refused To Sign

MR. JORGE G. ALEGARBES
Labor Representative
RTWPB-XI, Member

MRS. VIRGINIA T. CAMUS
Labor Representative
RTWPB-XI, Member

(SGD) DIR. PEDRITO J. SUSI, CESO II
DOLE -XI, Regional Director
RTWPB-XI, Board Chairman

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD REGION XI
Davao City

AMENDMENTS TO WAGE ORDER NO. RTWPB-XI-04

Section 3. (B) .5 is hereby deleted.

Section 3. (B) .8 is hereby amended to read as follows:

Section 3. Exemptions:

(A). x x x

(B). x x x

1. x x x

2. x x x

3. x x x

4. x x x

5. x x x

6. x x x

7. x x x

8. Labor Intensive establishments where labor cost is at least THIRTY PERCENT (30%) of production cost (underscoring supplied).

Section 5 is hereby amended to read as follows:

Section 5. In case of contracts for construction projects, security, janitorial and similar services allowable by the Labor Code, as amended, the prescribed minimum wage adjustment 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 the principal or clients. Should the principal or client be exempted from the provisions of this Wage Order, the workers and employees of the contractors detailed in said principal/client shall also be exempted from the applicability of this Wage Order (underscoring supplied).

x x x x x x

Approved in the City of Davao, Philippines, this 24th day of April, 1995.

(SGD) DIR. SANTIAGO G. ENGINCO, JR.
NEDA-XI Regional Director
RTWPB-XI Vice-Chairman
Presiding Officer

(SGD) ENGR. MERLY M. CRUZ
DTI-XI Regional Director
RTWPB-XI Vice-Chairman

(SGD) ATTY. BIENVENIDO D. CARIAGA
Management Representative
RTWPB-XI, Member

Refused to sign

Refused to sign

MR. JORGE G. ALEGARBES
Labor Representative
RTWPB-XI, Member

MRS. VIRGINIA T. CAMUS
Labor Representative
RTWPB-XI, Member

Out of the country
ATTY. MA. BRENDA L. VILLAFUERTE
OIC Regional Director, DOLE-XI
Acting Board Chairman, RTWPB-XI
Republic of the Philippines
Department of Labor and Employment
NATIONAL WAGES AND PRODUCTIVITY COMMISSION
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region XI, Davao City

RULES AND REGULATIONS IMPLEMENTING WAGE ORDER NO. RTWPB-XI-04

Pursuant to Section 10 of Wage Order No. RTWPB-XI-04, the following rules and regulations are hereby issued for the guidance and compliance of all concerned:

Chapter I

DEFINITION OF TERMS

SECTION 1. DEFINITION OF TERMS: - as used in these rules,

- a) "WAGE ORDER" means Wage Order No. RTWPB-XI-04.
- b) "COMMISSION" means the NATIONAL WAGES AND PRODUCTIVITY COMMISSION.
- c) "REGIONAL BOARD" means the Regional Tripartite Wages and Productivity Board of Region XI.
- d) "REGION XI" covers the Cities of Davao, General Santos and the Provinces of Davao del Sur, Davao del Norte, Davao Oriental, South Cotabato, Surigao del Sur and Sarangani.
- e) "DEPARTMENT" refers to the Department of Labor and Employment.
- f) "STATUTORY MINIMUM WAGE" is the lowest wage rate fixed by law/wage order that an employer should pay his workers;
- g) "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, 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, abaca, tobacco, pineapple, aquatic or other farms products.
- h) "PLANTATION AGRICULTURAL WORKERS" are those agricultural workers employed in any plantation or agricultural establishment with an area of more than twenty-four (24) hectares in a locality or which employs at least twenty (20) workers. All

other agricultural workers not included in the definition of plantation agricultural workers are considered non-plantation agricultural workers.

- i] "INDUSTRY" refers to a trade, business or a sector thereof, or a group or business in similar or allied activities in which individuals are gainfully employed.
- j] "RETAIL ESTABLISHMENT" is one open to the general consuming public for the sale of goods to end users for personal or household use.

A retail establishment that engages in wholesale activities loses its retail character.

- k] "SERVICE ESTABLISHMENT" is one engaged predominantly in the sale of services to individuals for their own or household use and is generally recognized as such.
- l] "NEW BUSINESS ESTABLISHMENT" are establishments including non-profit institutions, newly registered with the appropriate government agency such as SEC, DTI, CDA and the Mayor's Office, within the period January 1, 1995 to December 31, 1995.
- m] "COUNTRYSIDE BARANGAY BUSINESS ESTABLISHMENT" shall mean any business entity, association or cooperative registered under the provisions of R.A. 6810, within the period January 1, 1995 to December 31, 1995.
- n] "DISTRESSED ESTABLISHMENT" refers to the those establishments which meets the criteria enumerated in Section 3 (3) of the NWPC Guidelines No. 1, Series of 1992.
- o] "CAPITAL" refers to paid-up capital at the end of the last full accounting period in the case of corporation or total invested capital at the beginning of the last full accounting period, in the case of partnerships and single proprietorships preceding the effectivity of the Wage Order.
- p] "NON-STOCK, NON-PROFIT CORPORATIONS" refer to one organized principally for public purposes such as charitable, educational, cultural or similar purposes and does not issue shares of stock to its members.
- q] "EXPORT ORIENTED ENTERPRISE" refers to individuals, corporations or entities duly organized and existing under Philippine Laws which actually and directly engaged in the manufacture or production of goods or commodities, FIFTY (50) PERCENT of which is exported.
- r] "INDIRECT EXPORTERS" refers to individuals, corporations or entities duly organized and existing under the laws of the Philippines which engaged in the manufacture or production of goods or commodities for an exporting firm or principal,
- s] "LABOR INTENSIVE INDUSTRIES" are establishments, in which direct labor cost ratio to production cost is equal to or more than THIRTY (30) PERCENT of production cost or employ labor at the ratio of one (1) employee for every P100,000.00 of paid-up capital.
- t] "WAGE DISTORTION" refers to a 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 embodied in such wage structure based on skills, length of service, or other logical bases of differentiation.

Chapter II

COVERAGE OF WAGE INCREASE

SECTION 1. EMPLOYEES COVERED: - All workers and employees in the private sector in Region XI regardless of their position, designation or status, and irrespective of the method by which their wages are paid, except household or domestic helpers, including family drivers and workers in the personal service of another.

SECTION 2. AMOUNT OF MINIMUM WAGE INCREASE. Effective January 1, 1995, the daily statutory minimum wage rates of covered workers and employees in Region XI shall be increased by P15.00/day actually worked. Hence, under Wage Order No. 1 the Statutory Daily Minimum Wage Rates shall be as follows:

gross sales of P5M or more	88.50	103.50	86.50	101.50	84.50	99.50	83.50	98.50
Plantations with annual gross sales of less than P5M	83.50	98.50	81.50	96.50	79.50	94.50	78.50	93.50
	73.50	88.50	71.50	86.50	69.50	84.50	68.50	83.50
Non-Plantation								

SECTOR/INDUSTRY	Davao City Gen. Santos City		Davao Province Davao del Sur South Cotabato Sarangani		Davao Oriental		Surigao del sur	
	WO1	WO4	WO1	WO4	WO1	WO4	WO1	WO4
BUSINESS ENTERPRISES WITH CAPITALIZATION OF NOT MORE THAN P500,000 AND EMPLOYING NOT MORE THAN 20 WORKERS								
Non-Agricultural	94.00	109.00	92.00	107.00	90.00	105.00	89.00	104.00
Agricultural Plantation with Product other than Sugar	84.00	99.00	82.00	97.00	80.00	95.00	79.00	94.00
Sugar	78.50	93.50	76.50	91.50	74.50	89.50	73.50	88.50
Private Hospitals	90.00	105.00	88.00	103.00	86.00	101.00	85.00	100.00
RETAIL/SERVICE								
CITIES WITH POPULATION OF MORE THAN 150,000								
Employing more than 15 workers	94.00	109.00	92.00	107.00	90.00	105.00	89.00	104.00
Employing 11-15 workers	90.00	105.00	88.00	103.00	86.00	101.00	85.00	100.00
CITIES WITH POPULATION OF NOT MORE THAN 150,000								
Employing more than 10 workers	90.00	105.00	88.00	103.00	86.00	101.00	85.00	100.00

This is not therefore a mandatory across the board increase. Hence, establishments already granting a daily wage above the new statutory minimum wage are not covered from this provision. However, establishments which are granting daily wages above the old statutory

- d] For those who do not work and are not considered paid on Saturdays and Sundays or Rest Days:

$$\text{EMR} = \frac{\text{ADR} \times 262.60 \text{ days}}{12}$$

where 262.60 days

250 days = Ordinary Working Days

10 days = Regular Holidays

2.60 days = 2 Special Days (if worked is equivalent to 2.6 days) x

130%

262.60 days = Total Equivalent Number of Days

SECTION 4. APPLICABLE TO PRIVATE EDUCATIONAL INSTITUTIONS. The Applicable minimum wage increase for teaching and non-teaching personnel in private educational institutions shall take effect at the beginning of school year 1995-1996. The COLA of TWENTY-FIVE (25.00) PESOS/DAY mandated by Wage Order No. RTWPB-XI-03 shall, however, continue to be enforced until May 1995.

SECTION 5. APPLICABLE TO CONTRACTORS. In case of contracts for construction projects, security, janitorial and similar services allowable by the Labor Code, as amended, the prescribed minimum wage adjustment shall be borne by the principals or clients of the construction /service contractors and contracts shall be deemed amended accordingly. In the event, however, that the principal or client be exempted from the provisions of Wage Order No. RTWPB-XI-04, the workers and employees of the CONTRACTORS detailed in said principal/client shall also be exempted from the applicability of the Wage Order.

SECTION 6. WORKERS PAID BY RESULTS. (a) all workers paid by results, including those paid on piecework, takay, pakyaw, or task basis, shall be entitled to the prescribed minimum wage adjustment for eight (8) hours of work a day, or a proportion thereof for working less than eight (8) hours.

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

1. Amount of increase in AMV (which is the applicable minimum wage rate) ?
previous AMV x 100 = % increase.
2. Existing rate / piece x % increase = increase in rate / piece.
3. Existing rate / piece + increase in rate / piece = adjusted rate / piece.

(b) The wage rates 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.

Chapter III

EXEMPTION

SECTION 1. EXEMPTIONS. The following establishment may be exempted from complying with Wage Order No. RTWPB-XI-04 upon proper application and approval of the Regional Board in accordance with NWPC Guidelines No. 01, Series of 1992 or the following:

- A. Retail or service establishments regularly employing not more than TEN (10) employees.
- B. Distressed establishments.
- C. Non-stock, non-profit institutions like hospitals, asylum, orphanages, schools and similar institutions.
- D. New Business Enterprises (NBEs) that are established from January 1, 1995 until December 31, 1995, whose operations or investments need initial assistance.
- E. Countryside Barangay Business Establishment (CBBEs) established in Region XI from January 1, 1995 until December 31, 1995.
- F. Industries whose revenues are regulated by law. They shall be required to comply with Wage Order immediately upon approval of an adjustment in their rates by the concerned government agency, but not later than July 1, 1995.

Establishments granted rate adjustments by the appropriate government agency during the three (3) month period immediately preceding the issuance of the Wage Order shall comply with the minimum wage adjustments on the date of effectivity of the Wage Order.

- G. Export oriented enterprises where at least FIFTY (50) PERCENT of their production is exported. Exporting firms, including indirect exporters with existing forward contracts with their foreign buyers / principals at the time of effectivity of the Wage Order, may be exempt during the lifetime of the said contract, not to exceed twelve (12) months from the effectivity of the Wage Order.
- H. Labor Intensive enterprises where direct labor cost is at least THIRTY (30) PERCENT of production cost or employ labor at the ratio of one (1) employee for every one hundred thousand (100,000) pesos of paid-up capital.

SECTION 2. PROCEDURES ON EXEMPTION.

1. Filing of Application

1.A. Procedure

- 1.A.1 An application, in two (2) typewritten copies may be filed with the Board by the owner/manager or duly authorized representative of an establishment, in person or by registered mail. Application shall be filed not later than sixty (60) days from publication of the approved implementing rules and regulations. The date of mailing shall be deemed as the date of filing.

The post mark shall be deemed the date of filing.

- 1.A.2 The application shall be under oath and accompanied by complete supporting documents as enumerated under sub-section 2 hereof. In the case of an application with incomplete supporting documents, the applicant shall be notified to complete the same within ten (10) days from receipt of the notice; otherwise, the application shall be dismissed.

2. Documents Required - The following supporting documents shall be submitted together with the application:

- 2.A. 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. The proof of notice, which may be translated 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.
- 2.B. Business Permit for the current year from the Office of the City / Municipal Mayor, or registration from BOI, DTI, or CDA, or articles of incorporation from SEC or other governmental agencies;

The following are applicable to (G) Export Oriented Enterprises, item 2.C up to 2.C.1. is also applicable to (F) Industries regulated by law :

- 2.C. Affidavit from the employer regarding the following:
 - 2.C.1. Principal economic activity;
 - 2.C.2. List of forward contracts entered into with the following information among others;
 - 2.C.2.1. name of foreign buyers or principals and addresses;
 - 2.C.2.2 date of contracts;
 - 2.C.2.3 delivery or shipping dates;
 - 2.C.2.4 amount and volume of orders;
 - 2.C.3. No. of employees / workers;
 - 2.C.4. Existing union, if any.
- 2.D. Basic Documents to be submitted are:
 - 2.D.1. Certified true copies of the forward contracts covered;
 - 2.D.2. Irrevocable Letters of Credit.
- 2.E. Other Documents to support the application for exemption:
 - 2.E.1. Purchase Orders;
 - 2.E.2. Proof of acceptance of the Purchase Order;
 - 2.E.3. Bill of Lading;
- 2.F. Duly Audited Financial Statement during the last 2 full accounting period preceding the effectivity of the Wage Order.

SECTION 3. CRITERIA FOR EXEMPTION.

A. Industries whose revenues regulated by law:

A.1. Industries whose revenues are regulated by law, if they can establish that their revenues derived from their operation are regulated by law, provided that they shall be required to comply with this Wage Order immediately upon approval of an adjustment in their rates by the concerned government agency but not later than six (6) months from the effectivity hereof, and provided further that establishments granted rate adjustments by the appropriate government agency during the THREE (3) month period immediately preceding the issuance of this Wage Order shall comply with the minimum adjustments contained herein on the date this Wage Order took effect.

B. Export Oriented Enterprises:

B.1. The applicant must have a valid and a duly authenticated forward contracts.

B.2. The applicant must be engaged in the production, manufacture or processing of export products.

B.3. The applicant must be directly exporting its export products, or selling them:

B.3.1. to an exporting firm that subsequently exports the said products; or

B.3.2. to other export producers who utilize said products as direct inputs in products subsequently manufactured or processed by them and thereafter exported; or

B.3.3. to foreign buyers and foreign principals.

C. Labor Intensive Enterprises:

C.1. They must establish that the direct labor cost ratio to production cost is equal to or more than thirty (30) percent.

C.2. They must show that they employ labor at the ratio of one (1) employee for every one (100,000) hundred thousand pesos of paid-up capital.

SECTION 4. WORKERS' OPPOSITION.

Any worker or, if unionized, the union in the applicant-firm may file with the Board, within fifteen (15) days from receipt of the notice, an opposition to the application for deferment stating the reasons why the same should not be approved, furnishing the applicant a copy thereof. The opposition shall be in two (2) copies, under oath, and accompanied by pertinent documents, if any.

The filing of the opposition and/or providing testimony thereof shall not be a ground for discrimination, dismissal, nor disciplinary action of the worker.

SECTION 5. ACTION ON APPLICATION FOR EXEMPTION.

Upon receipt of an application for deferment with complete documents, the Board shall take the following steps:

A. Notify the nearest office of the Department having jurisdiction over the workplace of the pendency of the application requesting that action on any complaint for non-compliance with the Order be deferred pending resolution of the application by the Board. This may be disregarded if the application is filed directly with the nearest office of the Department;

- B. The Secretariat will submit within twenty (20) days the analysis and evaluation of the application to the Board which shall act on the application within ten (10) days;

The Board may request the Department to conduct an ocular inspection of establishments applying for exemption to determine the number of workers, nature of business, and labor-intensive character.

In case of contested application, the Board may conduct conciliation or call hearings thereon.

- C. A hearing may be set if additional information is needed.
- D. Transmit the decision of the Board to the applicant-firm, copy furnished the workers or their representative, and the Department.

SECTION 6. MOTION FOR RECONSIDERATION.

Only one (1) motion for reconsideration may be filed with the Board by the aggrieved party, copy furnished the other party and the nearest office of the Department. Such motion for reconsideration must be filed within ten (10) days from receipt of the decision in person or by mail and shall state the particular grounds upon which the motion is based. Motion for reconsideration shall be decided by the Board within fifteen (15) days from date of filing. The denial of the motion for reconsideration shall be final and immediately executory.

Any second motion for reconsideration shall be treated as an appeal and shall be forwarded to NWPC within 10 days from receipt thereof.

SECTION 7. EFFECTIVITY OF APPROVED APPLICATION.

Any exemption granted under this guidelines shall not extend beyond one (1) year from the effectivity of Wage Order No. RTWPB-XI-04.

SECTION 8. EFFECT OF DISAPPROVED APPLICATION.

In the event that the application for exemption is not approved, covered workers shall be paid the mandated wage increase as provided for under the Order retroactive to January 1, 1995 plus interest of one (1) percent per month.

SECTION 9. (A) WHENEVER AN APPLICATION FOR EXEMPTION HAS BEEN DULY FILED WITH THE REGIONAL BOARD, action by the Regional Office of the Department of Labor on any complaint for alleged non-compliance with Wage Order shall be deferred pending resolution of the application for exemption.

The Regional Board may grant partial exemption to distressed establishment which register at least 20 % but less than 25 % capital impairment or to non-stock, non-profit organizations that do not charge fees for the services rendered and whose revenues are derived primarily from donations and contributions when such revenues during the year preceding the effectivity of the Order have declined by at least 7.5% but less than 10% from the previous year.

(B) In the event the application for exemption is not granted, including those establishments who failed to file an application for exemption but did not comply with the Wage Order, The employers of such establishment(s) shall pay the appropriate compensation / minimum wage

adjustment due them as provided for under the Wage Order plus interest of ONE (1) PERCENT per month retroactive to the effectivity of the Wage Order.

(C) Establishments which were granted exemptions under Wage Order No. RTWPB-XI-03 shall no longer be exempted under the Wage Order No. RTWPB-XI-04 except when such establishments qualify for exemption under Section 3 (B) of the Wage Order.

Chapter IV

GENERAL PROVISIONS

SECTION 1. BASIS FOR MINIMUM WAGE RATES. The minimum wage rates as adjusted by the Wage Order shall be for the normal working hours, which shall not exceed eight (8) hours of work a day.

SECTION 2. WAGES OF SPECIAL GROUPS OF WORKERS: Wages of apprentices, learners and handicapped workers shall in no case be less than 75% of the adjusted minimum wage rates.

All recognized learnership and apprenticeship agreements entered into before January 1, 1995 shall be considered as automatically modified in so far as their wage clauses are concerned to reflect the increase prescribed under the Wage Order.

Apprentices, learners and handicapped workers in establishments granted an exemption from the Wage Order shall receive their old rates until such exemption lapses. Upon expiration of the exemption, learners, apprentices and handicapped workers' wages shall be adjusted accordingly.

SECTION 3. MOBILE AND BRANCH WORKERS: - the transfer of personnel to areas outside Region XI shall not be a valid ground for the reduction of the wage rates being enjoyed by the workers prior to such transfer. For workers transferred to Region XI shall be entitled to the minimum wage rate applicable therein whichever is higher.

SECTION 4. WAGE DISTORTION: - where the application of the wage increase provided under the Wage Order results in a distortion in the wage structure within an establishment, the employer and the union shall negotiate to correct the distortion. Any dispute arising from wage distortions shall be resolved through the grievance procedure under the 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 as prescribed by law.

In case 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 within the period prescribed by law, shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC).

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

SECTION 5. COMPLAINTS FOR NON-COMPLIANCE: - Complaints for non-compliance with the wage increase provided in the Wage Order shall be filed with the Regional Office of the

Department of Labor and Employment of Region XI and shall be the subject of enforcement proceedings under Arts.. 128/129 of the Labor Code, as amended.

SECTION 6. CONDUCT OF INSPECTION BY THE DEPARTMENT: - The Department shall conduct inspection of establishments, as often as necessary, to determine whether workers are paid the prescribed minimum wage under the Wage Order. In the conduct of inspection in unionized companies, the Department inspectors shall be accompanied by the President or other responsible officer of the recognized bargaining unit. In case of non-unionized establishments, a representative chosen by the workers in the said company shall accompany the Department Inspector.

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

SECTION 7. NON-DIMINUTION OF BENEFITS: - Nothing in the Order and these Rules shall be construed as authorizing the reduction of any existing wage rates, allowance or other benefits under existing laws, decrees, issuances, executive orders and / or under any contract or agreements between workers and employers.

SECTION 8. PENAL PROVISION: - Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increase under the Wage Order shall be subject to the Penal provisions of R.A. 6727.

SECTION 9. PROHIBITION AGAINST INJUNCTION: - No preliminary injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Commission or the Regional Board.

SECTION 10. EFFECTS ON OTHER ISSUANCES: - The provisions of existing laws and decrees on wages and their implementing rules and regulations and issuances not otherwise repealed, modified or inconsistent with the Order and these Rules shall continue to have full force and effect.

SECTION 11. SEPARABILITY CLAUSE: - If, for any reason, any section or provision of these Rules is declared null and void, no other section, provision, or part thereof shall be affected and the same shall remain in full force and effect.

SECTION 12. EFFECTIVITY: - These Rules shall take effect January 1, 1995.

Done in Davao City, Philippines, this 9th day of January 1995.

Refused to sign
MR. JORGE G. ALEGARBES
Labor Representative
Member, RTWPB-XI

Refused to sign
MS. VIRGINIA T. CAMUS
Labor Representative
Member, RTWPB-XI

Resigned as of Dec. 31, 1994
ATTY. ELIEZER C. TANLAPCO
Management Representative
Member, RTWPB-XI

(SGD) ATTY. BIENVENIDO D. CARIAGA
Management Representative
Member, RTWPB-XI

(SGD) ENGR. MERLY M. CRUZ

(SGD) DIR. SANTIAGO G. ENGINCO, JR.

DTI-XI Regional Director
RTWPB-XI Vice Chairman

NEDA-XI Regional Director
RTWPB-XI Vice Chairman

(SGD) ENGR. PEDRITO J. SUSI, CESO II
DOLE-XI Regional Director
RTWPB-XI Board Chairman

APPROVED this 20th day of February 1995, subject to the following notations.

(SGD) MA. NIEVES R. CONFESOR
Chairman

Notations to the Rules and Regulations Implementing Wage Order No. RTWPB - XI - 04 :

1. *The Board shall review Section 3. (B) . 8 and Section 5 of Wage Order No. RTWPB - XI - 04 relative to the grant of exemptions to "labor-intensive industries" and "principals and their contractors", for purposes of clarity and consistency with the corresponding provisions hereof.*
2. *The Board shall issue a Supplemental Guidelines on exemption, subject to the approval of the National Wages and Productivity Commission, covering labor-intensive establishments and requiring, among others, their submission of the following documents in addition to those listed under Sections 2.A and 2.B, Chapter III hereof:*
 - a. *Audited financial statements for the last two (2) full accounting periods immediately preceding the effectivity of the Order, including the pertinent Schedules of the Cost of Goods Manufactured and Sold.*
 - b. *Affidavit from the employer regarding (1) principal economic activity, (2) number of employees/workers and (3) existing union, if any.*

(SGD) MA. NIEVES R. CONFESOR
Chairman

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD REGION XI
Davao City

SUPPLEMENTAL GUIDELINES ON EXEMPTION FROM COMPLIANCE WITH THE PRESCRIBED STATUTORY MINIMUM WAGE GRANTED BY THE REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD OF REGION XI UNDER WAGE ORDER NO. RTWPB-XI-04.

Pursuant to Section 13 of the NWPC Guidelines No. 01 Series of 1992 on the Revised Guidelines on Exemption from Compliance with the Prescribed Wage Increases Granted by the Regional Tripartite Wages and Productivity Boards, the following supplemental guidelines on exemption are hereby issued for strict compliance of all concerned.

Section 1. Documents Required. The following additional supporting documents when applicable shall be submitted together with the application and other documents required under Sec. 2 of Chapter III of the Implementing Rules and Regulations.

1.1 FOR LABOR-INTENSIVE ESTABLISHMENTS

- a. Audited financial statements for the last two (2) full accounting periods preceding the effectivity of the Order including the Schedules of Cost of Goods Manufactured and Sold (underscoring supplied).
- b. Affidavit from the employer regarding (1) principal economic activity, (2) number of employees/workers and (3) existing union, if any

1.2 FOR EXPORT-ORIENTED ENTERPRISES

- a. exporters commercial invoices/or bill of lading.
- b. export documents or purchase orders or agreements/contracts for indirect exporters.
- c. certification from the applicant's external auditor that fifty (50%) percent or more of the applicants produce were exported in 1994 or is currently exporting the same volume or more.

In cases of indirect exporters, a certification from their principal/exporting firm(s) to the effect that their produce are for export.

SECTION 2. CRITERIA FOR EXEMPTION

2.2 EXPORT ORIENTED ENTERPRISES

The following are additional criteria when applicable:

- a. the applicant must have a valid/or duly authenticated exporter's commercial invoices/or purchase orders/or export documents and or bill of lading/or contracts/agreements to produce and sell to an exporter.

b.50% percent or more of the applicants produce were exported in 1994 or is currently exporting the same volume or more.

Approved 24 April 1995, Davao City, Philippines.

(SGD) DIR. SANTIAGO G. ENGINCO, JR.
NEDA-XI Regional Director
RTWPB-XI Vice-Chairman
Presiding Officer

(SGD) ENGR. MERLY M. CRUZ
DTI-X Regional Director
RTWPB-XI Vice-Chairman

(SGD) BIENVENIDO D. CARIAGA
Management Representative
RTWPB-XI, Member

Refused to sign
MR. JORGE G. ALEGARBES
Labor Representative
RTWPB-XI, Member

Refused to sign
MRS. VIRGINIA T. CAMUS
Labor Representative
RTWPB-XI, Member

Out of the country
ATTY. MA. BRENDA L. VILLAFUERTE
OIC Regional Director, DOLE-XI
Acting Board Chairman, RTWPB-XI

Approved this 22nd day of June, 1995.

(SGD) CRESENCIANO B. TRAJANO
Chairman Designate, NWPC