

Jack Dalrymple
Governor

Tony J. Weiler
Commissioner



State Capitol - 13th Floor
600 E. Boulevard Ave. - Dept. 406
Bismarck, ND 58505-0340

www.nd.gov/labor
www.nd.gov/humanrights

November 21, 2011

Mr. John Walstad, Code Reviser
Legislative Council
State Capital
600 East Boulevard Ave
Bismarck, ND 58505-0360

Dear Mr. Walstad,

The notice of intent to adopt and amend administrative rules and a copy of the proposed new and amended rules, is enclosed as required by N.D.C.C. § 28-32-10(1).

Sincerely,

A handwritten signature in blue ink, appearing to read "Tony J. Weiler".

Tony J. Weiler
Commissioner of Labor

Enc.

NOTICE OF INTENT TO
ADOPT AND AMEND ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Department of Labor will hold a public hearing to address proposed changes and additions to N.D. Admin. Code Chapters 46-02-07 and 46-03-01 at 9:00 a.m. on January 3, 2012, in the Fort Totten Room, Ground Floor of the North Dakota State Capitol, 600 East Boulevard Avenue, Bismarck, North Dakota. Written and oral comments will be accepted at the hearing.

The North Dakota Department of Labor will be adopting and amending rules related to the following chapters of N.D. Admin. Code Article 46-02 and 46-03. The changes are as follows:

- N.D. Admin. Code §46-02-07-01. Definitions.

The first addition will reflect a new definition under this administrative rule. It adds the definition of who is a "highly compensated employee" for purposes of an exemption from overtime for employees whose primary duty consists of performing office work or nonmanual work and who make at least one hundred thousand dollars per year or more.

Another addition defines "salary or fee basis" indicating it will be interpreted under Federal law.

Another addition defines "total annualized compensation" for the purposes of the exemption for a highly compensated employee.

- N.D. Admin. Code § 46-02-07-02. Standards that Apply.

This addition to the administrative rules indicates that a "Highly Compensated Employee" is not entitled to overtime for all hours worked over forty in any given work week.

- N.D. Admin. Code § 46-03-01-01. Formulas for determining regular rate and overtime.

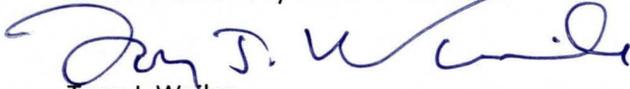
This addition to the administrative rules establishes a calculation of overtime for those paid on day rates and job rates.

The proposed rules and amendments are not expected to have impact on the regulated community in excess of \$50,000.

The proposed rules and amendments may be reviewed at the office of the North Dakota Department of Labor, 600 East Boulevard Avenue, Department 406, Bismarck, North Dakota 58505-0340. A copy of the proposed rules may be requested by writing the above address, by emailing labor@nd.gov or by calling (701) 328-2660 or (800) 582-8032 or via Relay ND at (800) 366-6888. Written or oral comments on the proposed and amended rules sent to the above address or telephone number and received by January 17, 2012, will be fully considered.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Department of Labor at the above address or telephone number at least one week prior to the public hearing.

Dated this 21st day of November 2011



Tony J. Weller
Commissioner of Labor