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29 CFR Ch. V (7-1-04 Edition)

SOURCE: 55 FR 12120, Mar. 30, 1990, unless otherwise noted.

Subpart A—General

§ 510.1 Summary.

(a) The Fair Labor Standards Amendments of 1989 (Pub. L. 101-157) were enacted into law on November 17, 1989. Among other provisions, these amendments to the Fair Labor Standards Act (FLSA) increased the minimum wage in section 6(a)(1) of the Act to \$3.80 an hour effective April 1, 1990, and to \$4.25 an hour effective April 1, 1991. With respect to certain industries and governmental entities in the Commonwealth of Puerto Rico, the Amendments provided that these increases would be phased in over extended periods of time.

(b) Section 6(c) of the FLSA provides for four separate categories or tiers for implementing the minimum wage rate increases in Puerto Rico.

(1) For Tier 1, which includes employees of the United States, employees of hotels, motels, or restaurants, retail or service establishments that employ such employees primarily in connection with the preparation or offering of food or beverages for human consumption, and industries in which the average hourly wage is greater than \$4.64, there shall be no phase-in. The wage rates and effective dates shall be those specified in section 6(a)(1) of FLSA, i.e., \$3.80 per hour beginning April 1, 1990 and \$4.25 per hour beginning April 1, 1991.

(2) For Tier 2, which includes industries in which the average hourly wage is not less than \$4.00 but not more than \$4.64, the increases in the minimum wage rates shall be phased-in in five annual increments (rounded to the nearest 5 cents) beginning April 1, 1990, and ending April 1, 1994.

(3) For Tier 3, which includes industries in which the average hourly wage is less than \$4.00, the increases in the minimum wage shall be phased-in in six annual increments (rounded to the nearest 5 cents) beginning April 1, 1990, and ending April 1, 1995.

(4) For Tier 4, which includes certain employees of the Commonwealth of Puerto Rico, municipalities, and other governmental entities of the Common-

wealth in which the average hourly wage is less than \$4.00, the increases shall be phased-in in seven annual increments (rounded to the nearest 5 cents) beginning April 1, 1990 and ending April 1, 1996.

(c) The Amendments also eliminated reference to Puerto Rico in those sections of FLSA relating to the establishment and conduct of special industry committees which recommend minimum wage rates in certain territories. These sections now apply only to American Samoa. (Industry committee regulations pertaining to American Samoa are found in 29 CFR parts 511 and 697).

§ 510.2 Purpose and scope of regulations.

(a) The purpose of these regulations is to implement the 1989 Amendments to the FLSA with respect to minimum wage increases in Puerto Rico. These regulations establish the applicable wage rates and effective dates in the four statutory tiers and categorize industries and governmental entities in Puerto Rico in those tiers according to average hourly wage rates. In addition, these regulations explain the methodology used to determine appropriate tiers, including the use of standard industrial classification (SIC) codes to categorize industries.

(b) Subpart A of this part summarizes the provisions of the Amendments as applicable to Puerto Rico and defines the terms used herein. Subpart B of this part states the specific minimum wage rates for each tier and the effective dates of those rates. Subpart C of this part explains how industry and governmental categories were determined, the general methodology used to conduct the surveys which provided the data used to determine average hourly wage rates, and special issues in the classification of governmental entities. Appendix A of this part contains a listing of manufacturing industries by Standard Industrial Classification (SIC) code and indicates the tier to which each industry is subject. Appendix B of this part contains a listing of nonmanufacturing industries by SIC code and indicates the tier to which each industry is subject.

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Appendix C of this part contains a listing of government corporations and indicates the tier to which each such corporation is subject. Appendix D of this part contains a listing of municipalities and indicates the tier to which each municipality is subject.

(c) Nothing contained in this part should be construed as precluding the Puerto Rico Minimum Wage Board, which has been granted authority to promulgate minimum wage rates above the Federal statutory minimum, from providing for increases in any industry which would exceed the rates provided for in these regulations or in section 6(a)(1) of the Act.

§ 510.3 Definitions.

(a) *Act* or *FLSA* means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201, *et seq.*).

(b) *Amendments* or *1989 Amendments* means the Fair Labor Standards Amendments of 1989 (Pub. L. 101-157).

(c) *Secretary* means the Secretary of Labor, or a duly authorized representative of the Secretary.

(d) *Administrator* means the Administrator of the Wage and Hour Division of the Employment Standards Administration, U.S. Department of Labor, or

a duly authorized representative of the Administrator.

(e) *Department* means the U.S. Department of Labor.

(f) *Tier* means one of the four categories established for an extended phase-in of the statutory increases in the minimum wage under section 6(c) of the Act as amended.

(g) *Standard Industrial Classification (SIC)* refers to the classifications established in the *Standard Industrial Classification Manual, 1987*, published by the Office of Management and Budget, Executive Office of the President.

Subpart B—Schedule of Minimum Wage Rates Applicable in Puerto Rico

§ 510.10 Table of wage rates and effective dates.

(a) The following table provides effective dates of minimum wage increases for the four statutory tiers. Appendices A and B to these regulations contain listings of manufacturing and non-manufacturing industries in Puerto Rico by SIC code, and indicate which tier is applicable. Appendices C and D contain listings of government corporations and municipalities and indicate which tier is applicable.

EFFECTIVE DATES

Tier	4/1/90	4/1/91	4/1/92	4/1/93	4/1/94	4/1/95	4/1/96
One	\$3.80	\$4.25	\$4.25	\$4.25	\$4.25	\$4.25	\$4.25
Two	3.55	3.70	3.90	4.05	4.25	4.25	4.25
Three	3.50	3.65	3.80	3.95	4.10	4.25	4.25
Four	3.50	3.60	3.75	3.85	4.00	4.10	4.25

(b) Tier 1 applies to employees of the United States, employees of hotels, motels, or restaurants, retail or service establishments that employ such employees primarily in connection with the preparation or offering of food or beverages for human consumption, and industries in which the average hourly wage is greater than \$4.64.

(c) Tier 2 applies to industries in which the average hourly wage is not less than \$4.00 but not more than \$4.64.

(d) Tier 3 applies to industries in which the average hourly wage is less than \$4.00.

(e) Tier 4 applies to certain employees of the Commonwealth of Puerto Rico, municipalities, and other governmental entities of the Commonwealth in which the average hourly wage is less than \$4.00.

Subpart C—Classification of Industries

§ 510.20 Wage surveys in Puerto Rico.

(a) The legislative history to the 1989 Amendments (Conference Report 101-47 on H.R. 2, May 8, 1989) stated that for any industry to qualify for an extended