

SUMMARY: Under the Fair Labor Standards Act, minimum wage rates in American Samoa are set by a special industry committee appointed by the Secretary of Labor. This document puts into effect the minimum wage rates recommended for various industry categories by Industry Committee No. 25 (the Committee), which met in public and executive session in Pago Pago, American Samoa, during the week of June 16, 2003.

DATES: This rule shall become effective August 22, 2003.

FOR FURTHER INFORMATION CONTACT: For information specifically about this final rule, contact Nancy Flynn, Director, Office of Planning and Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-0551. (This is not a toll free number.) Copies of the final rule in alternative formats may be obtained by calling (202) 693-0541 or (202) 693-1461 (TTY). The alternative formats available are large print, electronic file on computer disk (Word Perfect, ASCII, Mates with Duxbury Braille System) and audiotape.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This rule contains no reporting or record keeping requirements which are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (Pub. L. 104-13).

II. Background

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 205, 206, 208), and by means of the Administrative Order published in the **Federal Register** on April 23, 2003 (Vol. 68, No. 78 FR 20032), the Secretary of Labor appointed and convened Industry Committee No. 25 for Industries in American Samoa, referred to the Committee the question of the minimum rates of wages to be paid under section 8 of the FLSA to employees within the industries, and gave notice of a hearing to be held by the Committee.

Subsequent to a hearing conducted in Pago Pago pursuant to the notice, the Committee filed with the Administrator of the Wage and Hour Division a report containing its findings of fact and recommendations with respect to minimum wage rates for various industry classifications.¹ The FLSA

requires that the Secretary publish the recommendations in the **Federal Register** and further requires that the recommendations in the report be effective 15 days after publication. Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938 and 29 CFR 511.18, this rule hereby revises Secs. 697.2 and 697.4 of 29 CFR part 697 to implement the recommendations of Industry Committee No. 25.

III. Executive Order 12866, Section 202 of the Unfunded Mandates Reform Act of 1995 and Small Business Regulatory Enforcement Fairness Act

This rule is not a "significant regulatory action" within the meaning of Executive Order 12866, and no regulatory impact analysis is required. This document puts into effect the wage rates recommended by Industry Committee No. 25, which met in Pago Pago, American Samoa during the week of June 16, 2003. The Committee recommended no wage rate increases in any of the industry categories. The wage rates that were effective on October 1, 2002 will remain in effect.

This rule is not expected to result in a rule that may (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

For reasons similar to those noted above, the rule does not require a Sec. 202 statement under the Unfunded Mandates Reform Act of 1995.

Finally, the rule is not a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996. Although the rule will impact solely on American Samoa, its impact on costs or prices is not expected to be major, for the reasons discussed above.

prepared by the three members of the Committee who are residents of American Samoa. Attachment B is a dissent prepared by the two Committee members who represented employees. Copies of the Report may be obtained by contacting Nancy Flynn at 202-693-0551 or by e-mail at Flynn.Nancy@dol.gov.

IV. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have federalism implications.

The rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

V. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 533(b), the requirements of the Regulatory Flexibility Act, Public Law 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2).

VI. Administrative Procedure Act

Good cause exists for issuance of this rule without publication 30 days in advance of its effective date, as normally required by section 553(d) of the Administrative Procedure Act. As discussed above, Section 8 of the FLSA requires that the rule be effective 15 days after publication.

VII. Document Preparation

This document was prepared under the direction and control of Tammy D. McCutchen, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 697

American Samoa, Minimum wages.

■ Accordingly, part 697 of chapter V of title 29, Code of Federal Regulations is amended as set forth below.

PART 697—INDUSTRIES IN AMERICAN SAMOA

■ 1. The authority citation for part 697 continues to read as follows:

Authority: 29 U.S.C. 205, 206, 208.

■ 2. Section 697.2 is revised to read as follows:

§ 697.2 Industry wage rates and effective dates.

Every employer shall pay to each of his employees in American Samoa, who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in any enterprise engaged in commerce or in the production of goods for commerce, as these terms are defined in section 3 of the Fair Labor Standards Act of 1938, wages at a rate not less than the minimum rate prescribed in this section

¹ The Report of Industry Committee No. 25 includes as Attachment A, a written "Justification for No Minimum Wage Increase," which was