

**Wage Record Interchange System (WRIS)
Data Sharing Agreement Amendment Proposal**

Proposal Number: 15

Proposal Title:

Inclusion of NAICS Code in the Definition of Wage Data

Reference: *Section IV. Definitions, Subsection N*

Date Submitted: 2009

Sponsoring Entity Information:

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Statement of Issue:

Does Wage Data that is the subject of a WRIS Request, Reply, and Result include employer North American Industrial Classification System (NAICS) codes?

Discussion of Issue:

The Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA), part of the American Recovery and Reinvestment Act of 2009, contains a new state reporting requirement at Section 1854(a), codified at Section 249B(b)(4)(B) (19 U.S.C. § 2323(b)(4)(B)). States are now required to report the “sectors in which workers are employed after receiving benefits under this chapter.” This requirement will be implemented through a revised Trade Activity Participant Report, and the Employment and Training Administration will issue guidance on this revised report. Section VII. C.1. of the WRIS Data Sharing Agreement allows a PACIA to transmit a Request to the WRIS Clearinghouse for Wage Data for performance and reporting on the Trade Adjustment Assistance Program for Workers authorized under Chapter 2 of Title II of the Trade Act

of 1974 (19 U.S.C. § 2271 et seq.). The current definition of “Wage Data” in Section IV. N. of the Data Sharing Agreement does not explicitly include the “sectors in which workers are employed,” although the long-standing format for WRIS includes a field for NAICS codes. States already use NAICS codes to identify employment sectors in other Federal reports. The current “Wage Data” definition may be read broadly to include additional information that may be contained on quarterly employer wage reports. However, several states and ETA agree that listing the NAICS code in the definition of “Wage Data” will clarify the required elements of wage data exchanged through the WRIS.

Statement of Proposed Change/Proposal:

Reference: Section IV. Definitions, Subsection N

Original Provision:

N. “Wage Data” means individually identifiable information reported quarterly by employers as required by Section 1137(a)(3) of the Social Security Act including, but not limited to, employer names and employee names, SSNs, and associated wages.

Proposed Replacement Provision:

N. “Wage Data” means individually identifiable information reported quarterly by employers as required by Section 1137(a)(3) of the Social Security Act including, but not limited to, employer names and employee names, SSNs, and associated wages. Wage data also includes industry sectors in which employees work, as identified by the 6-digit North American Industrial Classification System (or “NAICS”) codes.

Supporting Documentation:

Not applicable

Preliminary Decision on Disposition of Amendment Proposal: 06/11/2010

Disposition Discussion:

A comment was received from Texas during the 60-day comment period suggesting that, although most states already provide NAICS codes, the Department of Labor should confirm with the Bureau of Labor Statistics (BLS) that the BLS does not have any concerns with states’ NAICS codes.

A comment was received from Pennsylvania during the 60-day comment period noting that the state would need to make appropriate programming changes to incorporate the NAICS field on all response files. Due to other major IT initiatives in which the Office of Information Technology is currently involved, Pennsylvania may experience workload issues that cause this enhancement to be severely delayed.

A comment was received from North Carolina during the 60-day comment period suggesting that language be crafted to address the exclusion of NAICS codes that fall under the protection of the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA), which strictly limits access to project data for a number of programs operated by the BLS (including Federal/State cooperative programs), the Bureau of Economic Analysis (BEA) and the Census Bureau. This includes NAICS code data collected via the programs operated under the LMI BLS Federal/State cooperative program, including the Quarterly Census of Employment and Wages, Mass Layoffs, Current Employment Statistics, Occupational Employment Statistic, etc.

An advisory was received from the BLS that the NAICS codes by themselves are not covered by CIPSEA as these codes are public information. Moreover, CIPSEA does not prohibit States from requesting the NAICS codes from employers or from States then providing the NAICS codes as part of their wage record data.

Proposed Disposition:

The preliminary decision on the disposition of this amendment proposal is to incorporate it into the Agreement, using new proposed language for the last sentence of Section IV.

N. that addresses the comments received: *Wage data also includes industry sectors in which employees work, as identified by the North American Industrial Classification System (or "NAICS") codes.*

N. *"Wage Data" means individually identifiable information reported quarterly by employers as required by Section 1137(a)(3) of the Social Security Act including, but not limited to, employer names and employee names, SSNs, and associated wages. Wage data also includes industry sectors in which employees work, as identified by the North American Industrial Classification System (or "NAICS") codes.*