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DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Revision of Confidentiality Pledges under the Confidential Information Protection and Statistical Efficiency Act

ACTION: Notice.

SUMMARY: Under 44 U.S.C. 3506(e) and 44 U.S.C. 3501, the Department of Labor (DOL) is announcing revisions to Bureau of Labor Statistics (BLS) confidentiality pledges provided to respondents under the Confidential Information Protection and Statistical Efficiency Act (44 U.S.C. 3501) (CIPSEA). These revisions are required by the passage and implementation of provisions of the Federal Cybersecurity Enhancement Act of 2015 (H.R. 2029, Division N, Title II, Subtitle B, Sec. 223), that permit and require the Secretary for the Department of Homeland Security (DHS) to provide Federal civilian agencies' information technology systems with cybersecurity protection for their Internet traffic. More details on this announcement are presented in the SUPPLEMENTARY INFORMATION section below.

DATES: These revisions become effective upon publication of this notice in the Federal Register.

ADDRESSES: Questions about this notice should be addressed to Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number); by email at DOL_PRA_PUBLIC@dol.gov; or by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200

Constitution Avenue, N.W., Washington, D.C. 20210. Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

FOR FURTHER INFORMATION CONTACT: Michel Smyth at (202)693-4129 (this is not a toll-free number) or by email at DOL_PRA_PUBLIC@dol.gov; or by mail or courier to the U.S.

Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue, N.W.,

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SUPPLEMENTARY INFORMATION: Federal statistics provide key information that the Nation uses to measure its performance and make informed choices about budgets, employment, health, investments, taxes, and a host of other significant topics. The overwhelming majority of Federal surveys are conducted on a voluntary basis. Respondents, ranging from businesses to households to institutions, may choose whether to provide the requested information. Many of the most valuable Federal statistics come from surveys that ask for highly sensitive information such as proprietary business data from companies or particularly personal information or practices from individuals. Strong and trusted confidentiality and exclusively statistical use pledges under the CIPSEA and similar statistical confidentiality pledges are effective and necessary in honoring the trust that businesses, individuals, and institutions, by their responses, place in statistical agencies.

Under the CIPSEA and similar statistical confidentiality protection statutes, many Federal statistical agencies make statutory pledges that the information respondents provide will be seen only by statistical agency personnel or their sworn agents, and will be used only for statistical purposes. The CIPSEA and similar statutes protect the confidentiality of information that

agencies collect solely for statistical purposes and under a pledge of confidentiality. These Acts protect such statistical information from administrative, law enforcement, taxation, regulatory, or any other non-statistical use and immunize the information submitted to statistical agencies from many legal processes. Moreover, statutes like the CIPSEA carry criminal penalties of a Class E felony (fines up to \$250,000, or up to five years in prison, or both) for conviction of a knowing and willful unauthorized disclosure of covered information.

As part of the Consolidated Appropriations Act for Fiscal Year 2016 signed on December 17, 2015, the Congress enacted the Federal Cybersecurity Enhancement Act of 2015 (H.R. 2029, Division N, Title II, Subtitle B, Sec. 223). This Act, among other provisions, requires the DHS to provide Federal civilian agencies' information technology systems with cybersecurity protection for their Internet traffic. The DHS cybersecurity program's objective is to protect Federal civilian information systems from malicious malware attacks. The Federal statistical system's objective is to ensure that the DHS Secretary performs those essential duties in a manner that honors the Government's statutory promises to the public to protect their confidential data. Given that the DHS is not a Federal statistical agency, both DHS and the Federal statistical system have been successfully engaged in finding a way to balance both objectives and achieve these mutually reinforcing objectives.

As required by passage of the Federal Cybersecurity Enhancement Act of 2015, the Federal statistical community will implement DHS' cybersecurity protection program, called Einstein.

The technology currently used to provide this protection against cyber malware electronically searches Internet traffic in and out of Federal civilian agencies in real time for malware signatures. When such a signature is found, the Internet packets that contain the malware signature are shunted aside for further inspection by DHS personnel. Because it is possible that

such packets entering or leaving a statistical agency’s information technology system may contain confidential statistical data, statistical agencies can no longer promise their respondents that their responses will be seen only by statistical agency personnel or their sworn agents. However, they can promise, in accordance with provisions of the Federal Cybersecurity Enhancement Act of 2015, that such monitoring can be used only to protect information and information systems from cybersecurity risks, thereby, in effect, providing stronger protection to the security and integrity of the respondents’ submissions.

Accordingly, DHS and Federal statistical agencies, in cooperation with their parent Departments, have developed a Memorandum of Agreement for the installation of Einstein cybersecurity protection technology to monitor their Internet traffic.

The DOL is providing this notice to alert the public in an efficient and coordinated fashion that it is revising its confidentiality pledge. Below is a listing of the current numbers and information collection titles for those BLS programs whose confidentiality pledges will change to reflect the statutory implementation of DHS’ Einstein monitoring for cybersecurity protection purposes.

For the Information Collections listed in the table below, BLS statistical confidentiality pledges will be modified to include the following sentence, “Per the Federal Cybersecurity Enhancement Act of 2015, Federal information systems are protected from malicious activities through cybersecurity screening of transmitted data.”

OMB CONTROL NUMBER	INFORMATION COLLECTION TITLE
1220-0039	Consumer Price Index Commodities and Services Survey
1220-0008	Producer Price Index Survey
1220-0011	Report on Employment, Payroll, and Hours
1220-0164	National Compensation Survey
1220-0170	Job Openings and Labor Turnover Survey (JOLTS)
1220-0189	Occupational Requirements Survey (Production)

1220-0025	International Price Program–U.S. Export Product Information
1220-0163	Consumer Price Index Housing Survey
1220-0042	Report on Occupational Employment
1220-0045	Survey of Occupational Injuries
1220-0133	Census of Fatal Occupational Injuries
1220-0012	Employment, Wages and Contributions Report (ES-202 Program)
1220-0032	Annual Refiling Survey
1220-0141	Cognitive and Psychological Research
1220-0134	Multiple Worksite Report and the Report of Federal Employment and Wages

Dated: November 29, 2016.

Michel Smyth,

Departmental Clearance Officer.

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