



Mashantucket Pequot
Tribal Nation

MASHANTUCKET EMPLOYMENT RIGHTS OFFICE

Instructions for Completion of Employment Data Report by Non-Tribal Employers

For Reporting of Employment on the Reservation under 33 M.P.T.L. ch.1 § 5
of the Mashantucket Pequot Tribal and Native American Preference Law

These instructions are ONLY for Non-Tribal Employers.¹ Follow all instructions carefully for completing the Employment Data Report (EDR), MERO Form 33-2400A.

DEFINITIONS:²

Applicant An individual who submits an employment application for an open position or who is considered by the employer for an open position on the Reservation.

Employee* An individual who performs work on the Reservation for the employer, provided the individual is classified as an employee. Employee includes, without limitation, full-time and part-time employees, employees holding 'key' positions, apprentices, trainees, paid interns and leased workers. Employee does not include an individual hired as a temporary employee who performed four (4) weeks or less (≤ 160 hours) of work in a position on the Reservation during the Reporting Year.

Employer* Any person or business employing five (5) or more employees who, during any 30-day period each spend, cumulatively, 40 or more hours performing work on the Reservation.

Native American* (NA) An individual enrolled in and recognized as a member by their tribe or tribal community, provided that the tribe or tribal community is recognized by the Federal Government.

Non-Tribal Employer An employer on the Reservation that is not a Tribal Employer.

Payroll Period for Data Collection (PPDC) A pay period between July 1 and September 30, which once established, is used from year to year. For example, if the first pay period in July is selected in Year 1, the first pay period in July is used each year thereafter. The EDR requests information from the PPDC and the 12-month period prior to the PPDC.

Preference Eligible A Native American, as defined above.³

Reporting Year (RY) The 12-month period immediately prior to the Payroll Period for Data Collection.

Reservation* The Mashantucket (Western) Pequot Reservation.

Transfer To relocate an existing employee to the establishment for which the EDR is filed from another employer location, regardless of whether the other location is on or off the Reservation.

Tribal Employer An arm, department, agency, subdivision, enterprise or organization within or wholly owned by the Mashantucket (Western) Pequot Tribal Nation and located on the Reservation.

Tribal Member* (TM) An enrolled member of the Mashantucket (Western) Pequot Tribal Nation, a federally recognized Native American tribe.

¹ The Employment Data Report is required to be completed by both Tribal and Non-Tribal Employers.

² Definitions applicable to completing the EDR are provided for the convenience of Non-Tribal Employers. Full definitions of terms followed by an asterisk (*) may be found in the law.

³ Tribal employers also afford preference to other Natives and to certain family members. Non-Tribal employers are required to afford preference only to enrolled members of federally recognized Native American tribes.

INSTRUCTIONS:

Who is required to file: Any business that employed employees at an establishment on the Reservation before June 1 of the calendar year in which the EDR is due is required to file a completed EDR, even if the establishment does not meet the definition of an “Employer” under the law. If a business new to the Reservation began employing employees on the Reservation on or after June 1, the business is not required to file an EDR, but is encouraged to file a practice EDR for feedback to gain a fuller understanding of the EDR requirements and to make the EDR easier to complete the following year.

When to file: The EDR must be received by the MERO no later than October 15 of each calendar year.

How to file: The fully completed EDR may be filed with the MERO in the following manner:

- Electronically via email to uhaerter@mptn-nsn.gov or confidential fax to 860-396-6511;
- In hard copy via U.S. Mail or other carrier service to the attention of the MERO Director at the address that appears at the bottom of the EDR form; or
- In hard copy via hand delivery; provided an advance appointment is made with the MERO Director. A package left at the building security desk is not guaranteed to reach the MERO.

Important: If the EDR is delivered in a manner other than electronic submission, keep a copy of the completed EDR in the event the original does not reach its destination.

What to file: The EDR form is available on request from the MERO and on the MERO website in an electronic PDF writeable format. Entries also may be typewritten or handwritten in ink. Forms with illegible entries or completed in pencil will not be accepted. The EDR must be fully completed and bear the signature of an authorized representative of the employer. Electronic signatures are permitted, provided that they comply with the requirements set forth below in Section VI - Certification.

Reporting Generally: Please note that the definitions of “applicant,” “employee” and “employment” are limited to individuals who are seeking work, work or worked on the Reservation.

Identifying Preference Eligible Individuals: A preference eligible individual is identified through their voluntary self-reporting as a Native American (NA) in response to the employer’s required solicitation of preference status. Individuals who do not self-report as NA may not be reported as preference eligible.

Section I – Employer & Reporting Year Information

Section I, A. Name of Establishment on the Reservation. Identify the name of the establishment on the Reservation for which the EDR is submitted.

Section I, B. Principal Business Activity of Establishment. Identify the principal activity of the establishment, including the industry and product produced or service provided.

Section I, C. Year for which Report Filed. The EDR is required to be filed October 15 each year. Identify the year for which the report is being filed.

Section I, D. Small Establishments. If an establishment did NOT satisfy the definition of “Employer” (see definition above) during ANY 30-day period in the year preceding July 1 of the year for which the report is filed (response to Section I, C), check the box and proceed to Section VI - Certification.

Example 1: The EDR filing is for 2022. The establishment on the Reservation reviews its records of employment for the period July 1, 2021 to July 1, 2022. The establishment determines that it met the definition of Employer during the period November 10, 2021

through December 15, 2021, a 35-day period. The establishment does not check the box in Section I, D and must complete the EDR in its entirety.

Example 2: The EDR filing is for 2022. Upon review of its records, the establishment on the Reservation determines that there was no period of 30 days between July 1, 2021 and July 1, 2022, during which it met the definition of Employer. The establishment checks the box in Section I, D and proceeds to Section VI-Certification.

Section I, E. Payroll Period for Data Collection (PPDC):

- Enter the pay period end date for the PPDC. (see definition of PPDC above)
- If the employer has a reasonable basis for changing the selected pay period within or between reports, an explanation must be provided in Section V - Remarks.

Section I, F. New Employer. If a business is new to the Reservation, enter the date on which employees were first employed on the Reservation.

Section II – Overview Note: The number in the second column (preference eligible) will not be greater than the number in the first column (total).

Section II, A.1.: Enter the total number of employees, whether or not preference eligible, who were on the employer's payroll as of the PPDC identified in Section I, E. Count all employees, including employees in positions exempt from preference and employees who were transferred from other locations.

Section II, A.2.: Enter the total number of employees who self-identified as members of federally recognized Native American tribes who were on the employer's payroll as of the PPDC identified in Section I, E. Count all preference employees including those in positions exempt from preference and those who were transferred from other locations.

Section II, B.1.: Enter the total number of employees, whether or not preference eligible, who were hired by the employer for any position at any time during the Reporting Year (RY) (see definition above), regardless of whether or not those employees continue to be employed.

Section II, B.2.: Enter the total number of employees who self-identified as members of federally recognized Native American tribes who were hired by the employer for any position during the RY, regardless of whether or not those employees continue to be employed.

Section II, C.1.: This question asks how many of the total employees hired in the Reporting Year (RY), were still employed as of the PPDC. Enter the total number of those employees identified in Section II, B.1., who were employed by the employer as of the PPDC identified in Section I, E. If no employees are identified in Section II, B.1., enter X in Section II, C.1.

Section II, C.2.: This question asks how many of the total preference eligible employees hired in the RY were still employed as of the PPDC. Enter the total number of those employees who self-identified as members of federally recognized Native American tribes identified in Section II, B.2., who were employed by the employer as of the PPDC identified in Section I, E. If no employees are identified in Section II, B.2., enter X in Section II, C.2.

Section II, D.1.: Enter the total number of applicants for open positions, whether or not preference eligible, during the Reporting Year (RY). Include applicants for all open positions, regardless of whether preference was afforded in filling the positions.

Section II, D.2.: Enter the total number of applicants for employment during the RY, who self-identified as members of federally recognized Native American tribes. Include preference eligible applicants for all open positions, regardless of whether preference was afforded in filling the positions.

Section II, E.2.: Enter the total number of positions for which the applicants who self-identified as members of federally recognized Native American tribes applied during the Reporting Year (RY). For example, if the employer had multiple openings for three (3) positions during the RY (e.g., kitchen manager, server and dishwasher) and received preference eligible applicants for only one (1) of the positions (e.g., full-time and part-time servers), the entry would be one (1).

Section II, F.2.: The response to Section II, F.2. is the same number that was entered in Section II.D.2, because Non-Tribal Employers are required to afford preference only to applicants and employees who self-identify as members of federally recognized Native American tribes.

Section III – Preference Tracking

Report in Section III any member of a federally recognized Native American tribe who was employed by the employer for any period of time in the Reporting Year (RY), which includes all preference employees who were reported in Sections II.A.2 and II.B.2, as well as any preference employees who were reported in Section II.A.2 of the EDR from the prior year. Any break in service (rehire) in the RY creates a new entry (reinstatement per an award or judgment does not constitute a break in service). Use the abbreviations indicated below when completing the Preference Tracking chart. To the extent response to any inquiry is not applicable, enter X.

Section III, A. Preference (Pref.) Type: In Column A, report the preference category of the employee. A Non-Tribal Employer is required to afford preference only to members of federally recognized tribes; therefore NA (Native American) may be used for each entry. A Non-Tribal Employer may voluntarily report members of the Mashantucket (Western) Pequot Tribal Nation, if known, by entering TM. If the employer is not certain whether the individual is a member of the MPTN, but knows the individual to be NA, the individual should be reported as NA.

Section III, B. Date of Hire (DOH): Indicate the date of the employee's hire by the employer in the following format: MM/DD/YY.

Section III, C. Job at Hire: Enter the number corresponding with the Job Category (see below) that best describes the position held by the employee as of hire. For example, if the employee was hired to fill a mid-level manager position, the designation is 1.2.

Section III, D. Date of Termination (DOT): If applicable, indicate the date of the employee's voluntary or involuntary termination or transfer off the Reservation in the following format: MM/DD/YY.

Section III, E. Reason for Termination: If the employee's employment on the Reservation was terminated due to employment separation or transfer, enter the letter associated with the

reason: Voluntary Quit (V), Layoff (L), Involuntary Termination (I), Retirement (R), Transfer to a position off the Reservation (T) and Other (O). If the reason is Other, provide an explanation in Section V - Remarks.

Section III, F. Job at PPDC or DOT: Enter the number corresponding with the Job Category (see below) that best describes the position held by the employee as of the PPDC or, if the employee's employment on the Reservation was terminated prior to the PPDC, as of the date of termination (includes transfer off the Reservation).

Section III, G. Other Status Change: If the employee changed status between the DOH and the PPDC/DOT job categories, enter the letter(s) associated with the employee's status change(s), as follows: Promotion (P); Demotion (D); Lateral job change (L); Other (O). For example, if an employee was hired and terminated within the RY as a 1.2, but between hire (DOH) and termination (DOT), the employee received first a promotion, then a lateral position, then a demotion, the entry would read, P, L, D. If the entry represents more than one change between the DOH and PPDC/DOT, explain in full in Section V - Remarks.

Section III, H. No. Others Employed: Enter the approximate number of other employees employed as of the PPDC on the Reservation within the Job Category held by the preference eligible employee as of the PPDC/DOT. For example, if as of the PPDC the preference employee was in Job Category 4, and there were 12 employees total in Job Category 4, as of the PPDC, the Section III, H. entry would be 11. (an approximation is sufficient)

Job Categories: Report employees in the jobs in which they are actually working by major job activity according to the definitions, not the employer job titles. If an employee works within more than one job category, report the employee in the category in which they spend the majority of their work time.

The major job categories are listed below, including a brief description of the skills and training required for occupations in that category and examples of the job titles that fit each category. The examples shown below are illustrative and not intended to be exhaustive of all job titles in a job category. These job categories are primarily based on the average skill level, knowledge, and responsibility involved in each occupation within the job category.

The Officials and Managers category as a whole is to be divided into the following two subcategories: Executive/Senior Level Officials and Managers and First/Mid-Level Officials and Managers. These subcategories are intended to mirror the employer's own well-established hierarchy of management positions. Small employers who may not have two well-defined hierarchical steps of management should report their management employees in the appropriate categories.

1.1 Executive/Senior Level Officials and Managers. Individuals who plan, direct and formulate policies, set strategy and provide the overall direction of enterprises/organizations for the development and delivery of products or services, within the parameters approved by boards of directors or other governing bodies. Residing in the highest levels of organizations, these executives plan, direct or coordinate activities with the support of subordinate executives and staff managers. They include, in larger organizations, those individuals within two reporting levels of the CEO, whose responsibilities require frequent interaction with the CEO. Examples of these kinds of managers are: chief executive officers, chief operating officers, chief financial officers, line of business heads, presidents or executive vice presidents of functional areas or

operating groups, chief information officers, chief human resources officers, chief marketing officers, chief legal officers, management directors and managing partners.

1.2 First/Mid-Level Officials and Managers. Individuals who serve as managers, other than those who serve as Executive/Senior Level Officials and Managers, including those who oversee and direct the delivery of products, services or functions at group, regional or divisional levels of organizations. These managers receive directions from the Executive/Senior Level management and typically lead major business units. They implement policies, programs and directives of executive/senior management through subordinate managers and within the parameters set by Executive/Senior Level management. Examples of these kinds of managers are: vice presidents and directors, group, regional or divisional controllers; treasurers; human resources, information systems, marketing, and operations managers. The First/Mid-Level Officials and Managers subcategory also includes those who report directly to middle managers. These individuals serve at functional, line of business segment or branch levels and are responsible for directing and executing the day-to-day operational objectives of enterprises/organizations, conveying the directions of higher-level officials and managers to subordinate personnel and, in some instances, directly supervising the activities of exempt and non-exempt personnel. Examples of these kinds of managers are: first-line managers; team managers; unit managers; operations and production managers; branch managers; administrative services managers; purchasing and transportation managers; storage and distribution managers; call center or customer service managers; technical support managers; and brand or product managers.

2 Professionals. Most jobs in this category require bachelor and graduate degrees, and/or professional certification. In some instances, comparable experience may establish a person's qualifications. Examples of these kinds of positions include: accountants and auditors; airplane pilots and flight engineers; architects; artists; chemists; computer programmers; designers; dietitians; editors; engineers; lawyers; librarians; mathematical scientists; natural scientists; registered nurses; physical scientists; physicians and surgeons; social scientists; teachers; and surveyors.

3 Technicians. Jobs in this category include activities that require applied scientific skills, usually obtained by post secondary education of varying lengths, depending on the particular occupation, recognizing that in some instances additional training, certification, or comparable experience is required. Examples of these types of positions include: drafters; emergency medical technicians; chemical technicians; and broadcast and sound engineering technicians.

4 Sales Workers. These jobs include non-managerial activities that wholly and primarily involve direct sales. Examples of these types of positions include: advertising sales agents; insurance sales agents; real estate brokers and sales agents; wholesale sales representatives; telemarketers; demonstrators; retail salespersons; counter and rental clerks; and cashiers.

5 Administrative Support Workers. These jobs involve non-managerial tasks providing administrative and support assistance, primarily in office settings. Examples of these types of positions include: office and administrative support workers; bookkeeping; accounting and auditing clerks; cargo and freight agents; dispatchers; couriers; data entry keyers; computer operators; shipping, receiving and traffic clerks; word processors and typists; proofreaders; desktop publishers; and general office clerks.

6 Craft Workers. Most jobs in this category include higher skilled occupations in construction (building trades craft workers and their formal apprentices) and natural resource extraction workers. Examples of these types of positions include: boilermakers; brick and stone masons; carpenters; electricians; painters (both construction and maintenance); glaziers; pipelayers, plumbers, pipefitters and steamfitters; plasterers; roofers; elevator installers; earth drillers; derrick operators; oil and gas rotary drill operators; and blasters and explosive workers. This category also includes occupations related to the installation, maintenance and part replacement of equipment, machines and tools, such as: automotive mechanics; aircraft mechanics; and electric and electronic equipment repairers. This category also includes some production occupations that are distinguished by the high degree of skill and precision required to perform them, based on clearly defined task specifications, such as: millwrights; etchers and engravers; tool and die makers; and pattern makers.

7 Operatives. Most jobs in this category include intermediate skilled occupations and include workers who operate machines or factory-related processing equipment. Most of these occupations do not usually require more than several months of training. Examples include: textile machine workers; laundry and dry-cleaning workers; photographic process workers; weaving machine operators; electrical and electronic equipment assemblers; semiconductor processors; testers, graders and sorters; bakers; and butchers and other meat, poultry and fish processing workers. This category also includes occupations of generally intermediate skill levels that are concerned with operating and controlling equipment to facilitate the movement of people or materials, such as: bridge and lock tenders; truck, bus or taxi drivers; industrial truck and tractor (forklift) operators; parking lot attendants; sailors; conveyor operators; and hand packers and packagers.

8 Laborers and Helpers. Jobs in this category include workers with more limited skills who require only brief training to perform tasks that require little or no independent judgment. Examples include: production and construction worker helpers; vehicle and equipment cleaners; laborers; freight, stock and material movers; service station attendants; construction laborers; refuse and recyclable materials collectors; septic tank servicers; and sewer pipe cleaners.

9 Service Workers. The Service Workers category as a whole is to be divided into the following four subcategories: food service, personal service, cleaning service and protective service. For all subcategories, skill may be acquired through formal training, job-related training or direct experience.

9.1 Food Service Examples of food service positions include: cooks; bartenders; and other food service workers.

9.2 Personal Service Examples of personal service positions include: medical assistants and other healthcare support positions; hairdressers; ushers; and transportation attendants.

9.3 Cleaning Service Examples of cleaning service positions include: cleaners; janitors; and porters.

9.4 Protective Service Examples of protective service positions include: transit and railroad police and fire fighters; guards; private detectives and investigators.

Section IV – Closure Information

If the employer’s business on the Reservation experienced any temporary closures during the Reporting Year, please indicate the approximate dates of the closure(s) and the reason for each closure.

Section V - Remarks

Include any remarks, explanations (whether or not requested), or other pertinent information. The Remarks section should include, without limitation, the following:

- Any significant changes in reporting of the data from prior years.
- If the employer changed the pay period used for the PPDC, an explanation for the change.
- If the establishment satisfied the definition of “Employer” only during limited periods between July 1 and July 1, specify the time period(s) when the establishment satisfied the definition of “Employer.”
- If the response to II.D.2 is higher than II.B.2, an explanation as to why each unsuccessful preference applicant was not hired.
- If II.A.1 or II.A.2 include transfers, the number of transfers and the positions held as of the PPDC.
- If the reason for termination in Section III was Other, an explanation.

Section VI – Certification

The completed EDR must be certified as true, accurate and complete by an authorized official of the employer. Electronic signatures, which includes manual signatures that are submitted electronically, are permitted, provided that the following requirements are met:

- The signature consists of a mark that is visible in both the electronic and print document formats.
- The signature appears in the area of the document designated for a signature.
- The full contact information for the individual signing the document is provided.
- The applicable box is checked reflecting the signer’s consent to conducting business electronically and understanding that their typed name is the legal equivalent of their handwritten, wet, manual signature.

If an employer representative other than the certifying official completes the EDR, check the “yes” box and provide that individual’s information. If assistance or information is provided by others, but the certifying official completes the EDR, only the certifying official’s contact information is required.

REQUIRED RECORDS RETENTION BY EMPLOYER:

All underlying records containing information relating to the data elicited on the Employment Data Report, including without limitation applications and personnel records, are required to be maintained by the employer for the later of one (1) year after submission of the EDR to which they relate or one (1) year after a final decision is rendered in any investigation, compliance or claim proceeding.

CONFIDENTIALITY OF DATA:

The Employment Data Reports and information from individual EDRs are generally not made public except under the following circumstances: (1) information may be included in a compilation of reported data; (2) select information regarding compliance or non-compliance with the law may be made public at the MERO’s discretion; (3) as required for purposes of administrative or court proceedings or (4) with the employer’s written consent.