TABLE 2—LOADING CONDITIONS FOR A MULTIPLE-VOLTAGE UNIT UNDER TEST—Continued

Load Condition 5.	10% of De-rated Nameplate Output Current ± 2% (optional).
Load Condition 6.	0%.

(6) Input and output power measurements shall be conducted in sequence from Loading Condition 1 to Loading Condition 5, as indicated in Table 2 of this section. For Loading Condition 6, place the unit under test in no-load mode, disconnect any additional signal connections to the unit under test, and measure input power.

(B) * * *

(2) If $D \geq 1$, then loading every bus to its nameplate output current does not exceed the overall nameplate output power for the power supply. In this case, each output bus will simply be loaded to the percentages of its nameplate output current listed in Table 2 of this section. However, if $D < 1$, it is an indication that loading each bus to its nameplate output current will exceed the overall nameplate output power for the power supply. In this case, and at each loading condition, each output bus will be loaded to the appropriate percentage of its nameplate output current listed in Table 2, multiplied by the derating factor *D*.

(C) Minimum output current requirements. Depending on their application, some multiple-voltage power supplies may require a minimum output current for each output bus of the power supply for correct operation. In these cases, ensure that the load current for each output at Loading Condition 4 in Table 2 of this section is greater than the minimum output current requirement. Thus, if the test method's calculated load current for a given voltage bus is lower than the minimum output current requirement, the minimum output current must be used to load the bus. This load current shall be recorded in the test report.

* * * * *

(E) Efficiency calculation and data recordation. The efficiency of a unit under test shall be calculated by dividing the measured active output power of that unit at a given loading condition by the active AC input power measured at that loading condition. The average active-mode efficiency of the unit shall be calculated by averaging the efficiency of the unit under test as calculated at Loading Conditions 1 through 4, unless output cannot be sustained at one of those loading conditions. In that case, average-active mode efficiency is calculated as described in paragraph (a)(i)(D) of this section. Additionally, an optional calculation and individual recording of the efficiency at Loading Condition 5 (specified in Table 2 in paragraph (b)(i)A)(5) of this section) may also be performed. Power factor for Loading Conditions 1 through 5 (as specified under the same Table 2) may also be recorded, but these measurements are not mandatory. The efficiency at each loading condition and the power factor at each loading condition shall be individually recorded.

(F) Power consumption calculation. Power consumption of the unit under test at Loading Conditions 1, 2, 3, 4, and 5 is the difference between the active output power at that Loading Condition and the active AC input power at that Loading Condition. The power consumption of Loading Condition 6 (no-load) is equal to the AC active input power at that Loading Condition.

(ii) Off Mode Measurement—If the multiple-voltage external power supply unit under test incorporates any on-off switches, the unit under test shall be placed in off mode and its power consumption in off mode measured and recorded. The measurement of the off mode energy consumption shall conform to the requirements specified in paragraph (b)(i) of this section. The only loading condition that will be measured for off mode is ''Loading Condition 6'' in paragraph (b)(i)(A), ''Loading conditions and testing sequence'', except that all manual on-off switches shall be placed in the off position for this measurement.

[FR Doc. 2014–24180 Filed 10–8–14; 8:45 am]

BILLING CODE 6450–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Parts 1260 and 1274

RIN 2700–AE12

Removal of Procedures for Delegation of Administration of Grants and Cooperative Agreements; Withdrawal

AGENCY: National Aeronautics and Space Administration

ACTION: Proposed rule; withdrawal.

SUMMARY: NASA hereby provides notice of the cancellation of a proposed rule without further action.

DATES: The proposed rule published in the **Federal Register** of November 14, 2013 (78 FR 68376) is withdrawn as of October 9, 2014.

FOR FURTHER INFORMATION CONTACT: Leigh Pomponio, NASA, Office of Procurement, Contract Management Division (Suite 2P77), 300 E Street SW., Washington DC, 30546–0001; email: *leigh.pomponio@nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

On November 14, 2013, NASA published a proposed rule (78 FR 68376) to remove internal procedures for delegation of grant administration from the regulation at 14 CFR 1260.70 and 1274.301. The action was published with an incorrect RIN number (2700–AE11). On December 26, 2013, a correction was published (78 FR 78305) to indicate that the correct RIN number is 2700–AE12. No public comments were received on the proposed rule. NASA will not proceed to finalize this action at this time. NASA is currently preparing guidance and regulations to implement OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (78 FR 78589, Dec 26, 2013). Because implementation of OMB's guidance will necessitate major changes to NASA's Grant Handbook, NASA will make changes to internal delegation of administration procedures concurrent with or following the implementation of OMB's uniform requirements.

Cynthia Boots,

Alternate Federal Register Liaison.

[FR Doc. 2014–22693 Filed 10–8–14; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 620

RIN 1205–AB63

Federal-State Unemployment Compensation Program; Middle Class Tax Relief and Job Creation Act of 2012 Provision on Establishing Appropriate Occupations for Drug Testing of Unemployment Compensation Applicants

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Employment and Training Administration (ETA) of the U.S. Department of Labor (Department) proposes to establish in regulation, for State Unemployment Insurance (UI) program purposes, occupations that regularly conduct drug testing. These regulations would implement the Middle Class Tax Relief and Job Creation Act of 2012 (the Act) amendments to the Social Security Act (SSA), permitting States to enact legislation that would allow State UI agencies to conduct drug testing on unemployment compensation (UC) applicants for whom suitable work (as defined under the State law) is *only* available in an occupation that regularly conducts drug testing (as determined under regulations issued by the Secretary of Labor (Secretary)). States may deny UC to an applicant who tests positive for drug use under these circumstances. The Secretary is required under the SSA to issue regulations determining those occupations that regularly conduct drug testing.

DATES: To be ensured consideration, comments must be submitted in writing on or before December 8, 2014.

ADDRESSES: You may submit comments, identified by Regulatory Information Number (RIN) 1205–AB63, by one of the following methods:

Federal e-Rulemaking Portal: *http://www.regulations.gov.* Follow the Web site instructions for submitting comments.

Mail and hand delivery/courier: Written comments, disk, and CD–ROM submissions may be mailed to Adele Gagliardi, Administrator, Office of Policy Development and Research, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–5641, Washington, DC 20210.

Instructions: Label all submissions with ''RIN 1205–AB63.''

Please submit your comments by only one method. Please be advised that the Department will post all comments received that that related to this NPRM on *http://www.regulations.gov* without making any change to the comments or redacting any information. The *http://www.regulations.gov* Web site is the Federal e-rulemaking portal and all comments posted there are available and accessible to the public. Therefore, the Department recommends that commenters remove personal information such as Social Security Numbers, personal addresses, telephone numbers, and email addresses included in their comments as such information may become easily available to the public via the *http://www.regulations.gov* Web site. It is the responsibility of the commenter to safeguard personal information.

Also, please note that due to security concerns, postal mail delivery in Washington, DC may be delayed. Therefore, the Department encourages the public to submit comments on *http://www.regulations.gov.*

Docket: All comments on this proposed rule will be available on the *http://www.regulations.gov* Web site and can be found using RIN 1205–AB63. The Department also will make all the comments it receives available for public inspection by appointment during normal business hours at the above address. If you need assistance to review the comments, the Department will provide appropriate aids such as readers or print magnifiers. The Department will make copies of this proposed rule available, upon request, in large print and electronic file on computer disk. To schedule an appointment to review the comments and/or obtain the proposed rule in an alternative format, contact the Office of Policy Development and Research at (202) 693–3700 (this is not a toll-free number). You may also contact this office at the address listed below.

Comments under the Paperwork Reduction Act: In addition to filing comments with ETA, persons wishing to comment on the information collection aspects of this rule may send comments to: Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Adele Gagliardi, Administrator, Office of Policy Development and Research, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–5641, Washington, DC 20210; telephone (202) 693–3700 (this is not a toll-free number).

Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The preamble to this proposed rule is organized as follows:

I. Background

On February 22, 2012, President Obama signed the Act, Public Law 112–96. Title II of the Act amended section 303, SSA, to add a new subsection (l) permitting States to drug test UC applicants as a condition of UC eligibility under two specific circumstances. The first circumstance is if the applicant was terminated from employment with the applicant's most recent employer because of the unlawful use of a controlled substance. (Section 303(l)(1)(A)(i), SSA.) The second circumstance is if the only available suitable work (as defined in the law of the State conducting the drug testing) for an individual is in an occupation that regularly conducts drug testing (as determined in regulations by the Secretary). A State may deny UC to an applicant who tests positive for drug use under these circumstances. (Section 303(l)(1)(A)(ii), SSA.) This proposed rule defines those occupations that regularly conduct drug testing as required by section 303(l)(1)(A)(ii), SSA. The Department of Labor will, separately from this rulemaking, issue further guidance to States to address other issues related to the implementation of drug testing under 303(l), SSA.

Consultations With Other Federal Agencies

The Department consulted with a number of Federal agencies with expertise in drug testing to inform this proposed regulation. Specifically, we consulted with the Substance Abuse and Mental Health Services Administration (SAMHSA) in the U.S. Department of Health and Human Services (HHS); the U.S. Department of Transportation (DOT); the U.S. Department of Defense (DOD); the U.S. Department of Homeland Security (DHS); DOL's Bureau of Labor Statistics (BLS); and DOL's Occupational Safety and Health Administration (OSHA). These agencies were consulted because they have experience with required drug testing. DOD and DHS defer to SAMHSA for interpretation of the drug testing requirements. Therefore, the Department gave deference to the SAMHSA guidance when developing this rule. The Department also canvassed State laws to develop an understanding of what occupations require regular drug testing at the State level.

SAMHSA: The Department consulted with SAMHSA because it is the Federal agency mandated to oversee Federal workplace drug testing by Pub. L. 100–71 and, further, by E.O. 12564, entitled Drug-Free Federal Workplace. E.O. 12564 requires that the head of each Federal agency ''shall establish a program to test for the use of illegal drugs by employees in sensitive positions.'' Public Law 100–71 directed HHS to establish scientific and technical guidelines and ensure that comprehensive standards are published to govern the drug testing of Federal employees. SAMHSA provides oversight for:

➢ The Federal Drug-Free Workplace Program, which aims to eliminate illicit drug use in the Federal workforce; and

➢ The National Laboratory Certification Program, which certifies laboratories to conduct forensic drug testing for the Federal agencies and for some Federally-regulated industries.

In order to oversee Federal workplace drug testing, SAMHSA reviews Federal agencies' drug testing designated positions (TDPs), which SAMSHA requires Federal agencies to designate.

OSHA: ETA consulted with DOL's OSHA because of its knowledge of employer drug testing programs. OSHA also was instrumental in identifying

expertise in other Federal agencies that proved valuable to the development of the NPRM.

DOT: ETA consulted with DOT partly because DOT has a number of occupations designated as TDPs by SAMHSA, and more significantly because DOT regulations at 49 CFR part 40 identify public and private employment in transportation industries as being subject to drug testing. These regulations require that the Secretary of Transportation ensure drug and alcohol testing policies are developed and carried out in a consistent, efficient, and effective manner within the transportation industries for the ultimate safety and protection of the traveling public.

BLS: ETA consulted with BLS and determined that currently no statistical collections exist that relate to occupations where employers regularly drug test.

Review of State Drug Testing Laws

ETA's consultation did not reveal any single reliable and current source of occupations that regularly drug test. Therefore, ETA relied on current Federal and State laws as the primary sources to determine what occupations regularly drug test for purposes of implementing Section 303(l), SSA. Some States have not enacted workplace drug and alcohol testing laws. Others have enacted laws that permit and encourage employers to conduct drug testing of applicants and/or employees, but they are not based on occupations and therefore do not fall within the scope of this rulemaking. For example, most States allow a private employer to decide whether and when to test job applicants and employees, often in accordance with a written policy created by the employer according to State law. In some instances, State law specifies that the employer may test job applicants and current employees for any job-related purpose consistent with business necessity and the terms of the employer's written policy. If States do provide restrictions on workplace drug testing, then they commonly provide more protection to employees than to job applicants. For example, a State's law may permit employers to require all job applicants with conditional offers of employment to take drug tests, but they permit an employer to require a drug test of an employee only if the employer has reasonable suspicion that use of drugs is impairing the employee's job performance or has probable cause to believe that the employee, while on the job, is using or is under the influence of drugs. These provisions are not relevant to this rulemaking, which must, under section 303(l)(1)(A)(ii), SSA, determine what occupations are ''regularly'' drug tested.

Many States also provide various discounts and credits to employers that adopt drug-free workplace programs. Some States' programs require drug testing of applicants and/or employees as part of these programs, while others do not. Some States that require participating employers to test job applicants nevertheless allow the employers to limit such testing based on reasonable classifications of job positions. Employer sponsorship of a drug-free workplace program is usually voluntary but may be required of state contractors.

State laws that clearly fall within the scope of this regulation include those that identify types of positions for which employers may conduct drug testing. For example, a State's law may permit drug testing only of individuals ''employed in safety-sensitive positions'' or if the ''employee serves in an occupation which has been designated as a high-risk or safety-sensitive occupation.'' At least one State permits testing of individuals who ''participate in activities upon which pari-mutuel wagering is authorized.''

State laws that identify specific classes of positions for which drug testing of applicants and/or employees is required also fall affirmatively within the scope of this regulation. State laws most commonly require drug testing of drivers of school transportation vehicles and commercial motor vehicles. States may also require certain types of private employers to conduct at least some drug testing of employees and/or job applicants (*e.g.,* nursing homes and home health agencies, residential childcare facilities, public works projects contractors, corrections facilities, and nuclear and radioactive storage and transfer facilities).

In conclusion, ETA's research of some Federal and State laws related to drug testing found that they refer to classes of positions (*e.g.,* any position requiring an employee to carry a firearm) that are required to be drug tested, rather than occupations as defined by BLS in the Standard Occupational Classification System. Therefore, this NPRM defines (as explained below) an ''occupation'' to mean a position or class of positions identified as subject to drug testing under specified Federal or State laws as described in these proposed regulations.

Summary of the Proposed Rule

We concluded from our research of what it means in Federal or State law to ''regularly'' drug test that no consistent standard applies across classes of positions or occupations to determine that ''regular'' drug testing occurs. While some State laws might permit, but not require, drug testing of certain ''occupations,'' whether drug testing is ''regularly'' conducted when merely permitted can vary widely across occupations and industries and trades, and regularity also can change over time. Thus, we believe it would be overbroad to include occupations for which State law merely permits, but does not require, drug testing. However, it is a given that any occupation for which drug testing is required is one that is drug tested ''regularly.'' Therefore, occupations that ''regularly'' require drug testing are limited in these regulations to those for which drug testing is required, not merely permitted. Therefore, this proposed regulation identifies classes of positions, or ''occupations,'' that are required to be drug tested in Federal or State law as the standard for determining ''occupations'' that ''regularly'' drug test.

Accordingly, we propose that an applicant may be drug tested by the State in order to be eligible to receive State UC if the applicant's only suitable work, as defined under the State UC law, is in a position or class of positions, *i.e.,* an ''occupation,'' for which Federal law or that State's law requires employee drug testing in that occupation. Additionally, we propose that only those State laws which identify occupations or positions (*e.g.,* school bus drivers) may be the basis for such testing; this regulation excludes, as the basis for testing, State laws that go beyond the scope of identifying occupations or position classifications, and instead identify types of employers (*e.g.,* public works projects contractors) or permit testing at the employer discretion (*e.g.,* in connection with a drug free workplace policy that applies to all applicants).

We also propose that classes of positions, or ''occupations,'' requiring drug testing under Federal and State laws be limited to those identified in Federal and State laws already in effect at the date of the publication of this NPRM. Because drug testing as a condition of UC eligibility is a new policy and has the potential to be implemented in ways that may have unintended consequences, the Department considers it prudent to apply Federal and State law drug testing requirements currently in place, to be able to assess and evaluate most effectively the impact of this new policy. The Department recognizes that Federal and State laws may evolve in identifying which positions or

occupations are required to drug test. The Department will monitor such changes and may amend this regulation accordingly in the future. The Department encourages comments on methods to refresh the list of occupations that regularly drug test.

For Federal laws requiring drug testing, SAMHSA has designated some classes of positions as ''presumptive'' TDPs, *i.e.,* positions that may be designated as requiring a drug test without the agency being required to justify the designation to SAMHSA. A list of presumptive TDPs is included in the HHS publication ''2010 Guidance for Selection of Testing Designated Positions,'' April 5, 2010, available on the SAMHSA Web site at *http://workplace.samhsa.gov/federal.html.* These classes of positions include those that require carrying a firearm, motor vehicle operators carrying passengers, aviation flight crew members and air traffic controllers, and railroad operating crews. This NPRM proposes that these classes of positions be deemed ''occupations'' that regularly drug test.

In addition, DOT requires drug testing for classes of positions in various transportation industries in 49 CFR Part 40,[1] Procedures for Transportation Workplace Drug and Alcohol Testing Programs. These regulations require the Secretary of Transportation to ensure drug and alcohol testing policies are developed and carried out in a consistent, efficient, and effective manner within the transportation industries for the ultimate safety and protection of the traveling public. DOT's Office of Drug and Alcohol Policy and Compliance provides guidance to the Federal agencies covered by DOT on the drug testing policy of covered employees (*i.e.,* those subject to drug testing). The regulations apply to safety-sensitive classes of positions in the transportation industries including aviation, trucking, mass transit, railroads, pipelines, and other vital transportation related industries. Mandatory drug testing requirements are identified in the sections of the CFR that apply to the specific Federal agencies that regulate these industry sectors. Federal agency regulations that implement the drug testing requirements of 49 CFR part 40 for the industries these agencies regulate are as follows: Federal Aviation Administration, 14 CFR part 120; Federal Motor Carrier Safety Administration, 49 CFR part 382; Federal Railroad Administration, 49 CFR part 219; Federal Transit Administration, 49 CFR part 655; Pipeline and Hazardous Materials Safety Administration, 49 CFR part 199; and crewmembers and maritime credential holders by the Coast Guard, 46 CFR part 16. The proposed regulation identifies the specific sections of these regulations that identify the classes of positions that are subject to drug testing.

[1] DOT was granted authority to establish regulations at 49 CFR Part 40 by the Omnibus Transportation Employee Testing Act of 1991, Public Law 102–143.

II. Section-by-Section Review

What is the purpose of the proposed regulation? (§ 620.1)

Proposed § 620.1 explains that the purpose of the NPRM is to implement section 303(l)(A)(ii), SSA, permitting drug testing UC applicants for the use of controlled substances where suitable work (as defined under the State's UC law) is only available in an occupation for which drug testing is regularly conducted (as determined under this part 620).

What definitions apply to this part? (§ 620.2)

''Applicant'' means an individual who files an initial claim for UC under State law. ''Applicant'' excludes an individual already found initially eligible and filing a continued claim. This is consistent with common usage of the term ''applicant'' in UC nomenclature.

''Controlled substance,'' as defined by Section 303(l)(2)(B), SSA, has the same meaning given such term in section 102 of the Controlled Substances Act (Pub. L. 91–513, 21 U.S.C. 801 *et seq.*). ''Controlled substance'' means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of 21 U.S.C. 801 *et seq.* The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1986.

''Occupation'' means a position or class of positions. As discussed above, Federal and State laws on drug testing do not specify or refer to ''occupations'' requiring drug testing, but rather identify positions or classes of positions, in descriptive terms such as, for example, positions requiring the carrying of a firearm. Because we propose to refer to specific provisions of law in defining ''occupations'' for purposes of UC drug testing, the proposed definition of occupation identifies the specific provisions of law in the later section.

''Suitable Work'' means suitable work as defined under the UC law of the State against which the claim is filed. This is the same definition of ''suitable work'' under that State law as the State otherwise uses for determining UC eligibility based on seeking work or refusal of work.

''Unemployment Compensation'' is defined in Section 303(l)(2)(A), SSA, to have the same meaning given to the term in Section 303(d)(2)(A), SSA, which states that the term unemployment compensation means ''any unemployment compensation payable under the State law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law.)'' Section 3306(h) of the Federal Unemployment Tax Act (26 U.S.C. 3306(h)) defines compensation to mean ''cash benefits payable to individuals with respect to their unemployment.''

What are the occupations for which drug testing is regularly conducted for purposes of this part 620? (§ 620.3)

Proposed § 620.3 identifies occupations for which drug testing is regularly conducted. These occupations are those that require the employee to carry a firearm. They also include classes of positions/occupations identified by SAMHSA as presumptive drug testing positions; classes of positions/occupations for which employers are required to drug test employees as identified in DOT's regulations at 49 CFR parts 199, 219, 382, and 655; classes of positions/occupations for which drug testing is required under United States Coast Guard regulations at 46 CFR part 16; and classes of positions/occupations in which an employee must be tested under Federal Aviation Administration regulations at 14 CFR part 120. As explained above, these occupations are limited to those identified in these regulations as of the date of the publication of the proposed rule. They also include occupations for which drug testing was required already under State law in effect at the date of publication of this NPRM. States are not required to drug test as a condition of UC eligibility for any of these occupations; however, they may not, except as permitted by section 303(l)(1)(A)(i), SSA, (governing drug testing of individuals terminated for the unlawful use of a controlled substance) drug test for any occupation that does not meet the definition in § 620.3. As noted previously, it is the Department's intent to monitor Federal and State legislation in relation to classes of positions or occupations that are required to drug test and consider changes to the regulation as appropriate.

DOL seeks comments on how to refresh the list of occupations.

What are the parameters for the testing of applicants for the unlawful use of a controlled substance? (§ 620.4)

Proposed § 620.4, consistent with section 303(l), SSA, provides that a State may require applicants to take and pass a drug test for the illegal use of controlled substances as a condition of initial eligibility for UC under specified conditions. Applicants may be denied UC based on the results of these tests.

Proposed paragraph (a) provides that an applicant, as defined in proposed § 620.2, may be tested for the unlawful use of controlled substances, as defined in proposed § 620.2, as an eligibility condition for UC if the individual is one for whom suitable work, as defined by that State's UC law, is only available in an occupation that regularly conducts drug testing, as determined under proposed § 620.3. The reference to ''applicant,'' ensures that only an applicant who is filing an initial UC claim, and not a claimant filing a continued claim, may be subject to drug testing.

Proposed paragraph (b) provides that a State requiring drug testing as a condition of UC eligibility may apply drug testing to any one or more of the occupations listed under § 620.3, but is not required to apply drug testing to any of them. The Act does not require a State to conduct drug tests at all, and consistent with the partnership nature of the Federal-State UC system, the Department proposes to allow States flexibility to decide which permitted occupations may be subject to State-conducted drug testing.

Proposed paragraph (c) provides that the standards which a State establishes relating to drug testing of applicants for UC must be in accordance with guidance issued by the Department. While section 303(l), SSA, requires the Secretary to issue regulations on the occupations that regularly conduct drug testing, the Secretary will address all other issues relating to section 303(l), SSA, in later guidance such as program letters and other issuances.

What are the consequences of failing to implement a drug testing program in accordance with these regulations? (§ 620.5)

Section 620.5 explains that implementation of drug testing of UC applicants as authorized under State laws must be in conformity with these regulations in order for States to be certified under Section 302 of the SSA (42 U.S.C. 502), with respect to whether a State is eligible to receive Federal grants for the administration of its UC program.

III. Administrative Information

Executive Orders 12866 and 13563: Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. For a ''significant regulatory action,'' E.O. 12866 asks agencies to describe the need for the regulatory action and explain how the regulatory action will meet that need, as well as assess the costs and benefits of the regulation.[2] This regulation is necessary because of the statutory requirement contained in new section 303(l)(1)(A)(ii), SSA, which requires the Secretary to determine the occupations that regularly conduct drug testing for the propose of determining which applicants may be drug tested when applying for State unemployment compensation. The Department considers this rule to be a ''significant regulatory action'' as defined in section 3(f) of E.O. 12866, because it raises novel legal or policy issues arising out of legal mandates. Before the amendment of Federal law to add new section 303(l)(1), SSA, drug testing of applicants for UC as a condition of eligibility was prohibited.

The Department believes this is not an economically significant rulemaking within the definition of E.O. 12866 because it is not an action that is likely to result in the following: An annual effect on the economy of $100 million or more; an adverse or material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities; serious inconsistency or interference with an action taken or planned by another agency; or a material change in the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof. In addition, since the rule is entirely voluntary on the part of the States and since Section 303(l), SSA is written so narrowly that the number of UI applicants eligible to be tested will be small, the Department believes it is unlikely that many States will establish a testing program because they won't deem it cost effective to do so. The Department seeks comment from interested stakeholders on this assumption.

There are limited data on which to base estimates of the cost associated with establishing a testing program. Only one of the two States that have enacted a conforming drug testing law issued a fiscal note. That State is Texas, which estimated that the 5-year cost of administering the program would be $1,175,954. This includes both one-time technology personnel services for the first year to program the system and ongoing administrative costs for personnel. The Texas analysis estimated a potential savings to the Unemployment Trust Fund of $13,700,580 over the 5-year period, resulting in a net savings of approximately $12.5 million. The Department believes it would be inappropriate to extrapolate the Texas analysis to all States in part because of differences in the Texas law and the requirements in this proposed rule. The Department has included this information about Texas for illustrative purposes only and emphasizes that by doing so, it is not validating the methodology or assumptions in the Texas analysis. Under the proposed rule, States will be prohibited from testing applicants for unemployment compensation who do not meet the narrow criteria established in the law. The Department requests that interested stakeholders with data on the costs of establishing a state-wide testing program; the number of applicants for unemployment compensation that fit the narrow criteria established in the law; and estimates of the number of individuals that would subsequently be denied unemployment compensation due to a failed drug test submit it during the comment period.

In the absence of data, the Department is unable to quantify the administrative costs States will incur if they choose to implement drug testing pursuant to this rule. States may need to find funding to implement a conforming drug testing program for unemployment compensation applicants. No additional funding has been appropriated for this purpose and current Federal funding for the administration of State unemployment compensation programs may be insufficient to support the additional costs of establishing and operating a drug testing program. Permissible alternative funding sources are not readily available. States will need to fund the cost of the drug tests,

[2] Executive Order No. 12866, section 6(a)(3)(B).

staff costs for administration of the drug testing function, and technology costs to track drug testing outcomes. States will incur ramp up costs that will include implementing business processes necessary to determine whether an applicant is one for whom drug testing is permissible pursuant to the law; developing a process to refer and track applicants referred for drug testing; and the costs of testing that meets the standards required by the Secretary of Labor. States will also have to factor in increased costs of adjudication and appeals of both the determination of applicability of the drug testing to the individual and of the resulting determinations of benefit eligibility based on the test results.

To date, very few States have expressed interest in drug testing unemployment compensation applicants. Only two States have enacted conforming legislation. Only six other States introduced conforming drug testing bills so far and none of them were passed by the house of introduction.

Benefits of the rule are equally hard to determine. As discussed above, the provisions will impact a very limited number of applicants for unemployment compensation benefits.

Paperwork Reduction Act

The purposes of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* include minimizing the paperwork burden on affected entities. The PRA requires certain actions before an agency can adopt or revise a collection of information, including publishing a summary of the collection of information, a brief description of the need for and proposed use of the information, and a request for comments on the information collections.

A Federal agency may not conduct or sponsor a collection of information unless it is approved by OMB under the PRA, and displays a currently valid OMB control number, and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512).

The Department has determined that this proposed rule does not contain a ''collection of information,'' as the term is defined. *See* 5 CFR 1320.3(c). DOL expressly seeks comments on this determination.

Executive Order 13132: Federalism

Section 6 of Executive Order 13132 requires Federal agencies to consult with State entities when a regulation or policy may have a substantial direct effect on the States or the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government, within the meaning of the Executive Order. Section 3(b) of the Executive Order further provides that Federal agencies must implement regulations that have a substantial direct effect only if statutory authority permits the regulation and it is of national significance.

This proposed rule does not have a substantial direct effect on the States or the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of Government, within the meaning of the Executive Order. This is because drug testing authorized by the regulation is voluntary on the part of the State, not required.

Unfunded Mandates Reform Act of 1995

This regulatory action has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (the Reform Act). Under the Reform Act, a Federal agency must determine whether a regulation proposes a Federal mandate that would result in the increased expenditures by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any single year. The Department has determined that since States have an option of drug testing UC applicants and can elect not to do so, this proposed rule does not include any Federal mandate that could result in increased expenditure by State, local, and Tribal governments. Drug testing under this rule is purely voluntary, so that any increased cost to the States is not the result of any mandate. Accordingly, it is unnecessary for the Department to prepare a budgetary impact statement.

Plain Language

The Department drafted this proposed rule in plain language.

Effect on Family Life

The Department certifies that this proposed rule has been assessed according to section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681) for its effect on family well-being. The Department certifies that this proposed rule does not adversely impact family well-being as discussed under section 654 of the Treasury and General Government Appropriations Act of 1999.

Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act

The Regulatory Flexibility Act (RFA) at 5 U.S.C. 603(a) requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis which will describe the impact of the proposed rule on small entities. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. This rule does not affect small entities as defined in the RFA. Therefore, the rule will not have a significant economic impact on a substantial number of these small entities. The Department has certified this to the Chief Counsel for Advocacy, Small Business Administration, pursuant to the Regulatory Flexibility Act.

List of Subjects in 20 CFR Part 620

Unemployment compensation.

For the reasons stated in the preamble, the Department proposes to amend 20 CFR chapter V by adding part 620 to read as follows:

PART 620—OCCUPATIONS THAT REGULARLY CONDUCT DRUG TESTING FOR STATE UNEMPLOYMENT COMPENSATION ELIGIBILITY DETERMINATION PURPOSES

Sec.

Authority: 42 U.S.C. 1302(a); 42 U.S.C. 503(l)(1)(ii)

§ 620.1 Purpose.

The regulations in this part implement section 303(l) of the Social Security Act (SSA) (42 U.S.C. 503(l)). Section 303(l), SSA, permits States to enact legislation to provide for the State-conducted testing of an unemployment compensation applicant for the

unlawful use of controlled substances, as a condition of unemployment compensation eligibility, if the applicant was discharged for unlawful use of controlled substances by his or her most recent employer, or if suitable work (as defined under the State unemployment compensation law) is only available in an occupation for which drug testing is regularly conducted (as determined under this part 620). Section 303(l)(1)(A)(ii), SSA, requires the Secretary of Labor to issue regulations determining the occupations that regularly conduct drug testing. These regulations are limited to that requirement.

§ 620.2 Definitions.

As used in this part—

Applicant means an individual who files an initial claim for unemployment compensation under State law. *Applicant* excludes an individual already found initially eligible and filing a continued claim.

Controlled substance means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of 21 U.S.C. 801 *et seq.,* as defined in section 102 of the Controlled Substances Act (Pub. L. 91–513, 21 U.S.C. 801 *et seq.*). The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1986.

Occupation means a position or class of positions. Federal and State laws governing drug testing refer to the classes of positions that are required to be drug tested rather than occupations, such as those defined by the Bureau of Labor Statistics in the Standard Occupational Classification System. Therefore, for purposes of this regulation, a position or class of positions will be considered the same as an ''occupation.''

Suitable work means suitable work as defined by the unemployment compensation law of a State against which the claim is filed. It must be the same definition the State law otherwise uses for determining the type of work an individual must seek given the individual's education, experience and previous level of remuneration.

Unemployment compensation means any cash benefits payable to an individual with respect to their unemployment under the State law (including amounts payable under an agreement under a Federal unemployment compensation law.)

§ 620.3 Occupations that regularly conduct drug testing for purposes of determining which applicants may be drug tested when applying for State unemployment compensation.

Occupations that regularly conduct drug testing, for purposes of § 620.4, are:

(a) An occupation that requires the employee to carry a firearm;

(b) An occupation identified in 14 CFR 120.105 (as in effect on October 9, 2014) by the Federal Aviation Administration, in which the employee must be tested (Aviation flight crew members and air traffic controllers);

(c) An occupation identified in 49 CFR 382.103 (as in effect on October 9, 2014) by the Federal Motor Carrier Safety Administration, in which the employee must be tested (Commercial drivers);

(d) An occupation identified in 49 CFR 219.3 (as in effect on October 9, 2014) by the Federal Railroad Administration, in which the employee must be tested (Railroad operating crew members);

(e) An occupation identified in 49 CFR 655.3 (as in effect on October 9, 2014) by the Federal Transit Administration, in which the employee must be tested (Public transportation operators);

(f) An occupation identified in 49 CFR 199.2 (as in effect on October 9, 2014) by the Pipeline and Hazardous Materials Safety Administration, in which the employee must be tested (Pipeline operation and maintenance crew members);

(g) An occupation identified in 46 CFR 16.201(as in effect on October 9, 2014) by the United States Coast Guard, in which the employee must be tested (Crewmembers and maritime credential holders on a commercial vessel);

(h) An occupation specifically identified as requiring an employee to be tested for controlled substances in a State law that took effect no later than October 9, 2014, and still remains in effect. DOL seeks comments specifically on how to refresh the list of occupations.

§ 620.4 Testing of unemployment compensation applicants for the unlawful use of a controlled substance.

(a) States may conduct a drug test on an unemployment compensation applicant, as defined in § 620.2 of this part, for the unlawful use of controlled substances, as defined in § 620.2, as a condition of eligibility for unemployment compensation if the individual is one for whom suitable work, as defined in State law, as defined in § 620.2, is only available in an occupation that regularly conducts drug testing under § 620.3 of this part. Drug testing is permitted only of an applicant, and not of an individual filing a continued claim for unemployment compensation after initially being determined eligible. No State is required to apply drug testing to UC applicants under this part 620.

(b) A State conducting drug testing as a condition of unemployment compensation eligibility as provided in paragraph (a) of this section may apply drug testing only to the occupations listed under § 620.3, but is not required to apply drug testing to any of them.

(c) State standards governing drug testing of UC applicants must be in accordance with guidance, in the form of program letters or other issuances, issued by the Department of Labor.

§ 620.5 Conformity and substantial compliance.

(a) *In general.* A State law implementing the drug testing of applicants for unemployment compensation must conform with, and the law's administration must substantially comply with, the requirements of this part 620 for purposes of certification under section 302 of the SSA (42 U.S.C. 502), of whether a State is eligible to receive Federal grants for the administration of its UC program.

(b) *Resolving issues of conformity and substantial compliance.* For the purposes of resolving issues of conformity and substantial compliance with the requirements of this part 620, the following provisions of 20 CFR 601.5 apply:

(1) Paragraph (b) of 20 CFR 601.5, pertaining to informal discussions with the Department of Labor to resolve conformity and substantial compliance issues, and

(2) Paragraph (d) of 20 CFR 601.5, pertaining to the Secretary of Labor's hearing and decision on conformity and substantial compliance.

(c) *Result of failure to conform or substantially comply.* Whenever the Secretary of Labor, after reasonable notice and opportunity for a hearing to the State UC agency, finds that the State UC law fails to conform, or that the State or State UC agency fails to comply substantially, with the requirements of title III, SSA (42 U.S.C. 501–504), as implemented in this part 620, then the Secretary of Labor must notify the Governor of the State and such State UC agency that further payments for the administration of the State UC law will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the

Department of Labor will not make further payments to such State.

Portia Wu,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2014–24098 Filed 10–8–14; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Chapter II

[Docket No. FR–5817–N–01]

Federal Housing Administration (FHA): Solicitation of Comment on Streamline Refinance Provisions in the FHA Single Family Housing Policy Handbook

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Solicitation of comment.

SUMMARY: On September 30, 2014, FHA issued the FHA Single Family Housing Policy Handbook section for Title II Insured Housing Programs Forward Mortgages: Origination through Post-Closing/Endorsement, Handbook 4000.1. The goal of the new FHA Single Family Housing Policy Handbook (Handbook) is to streamline and ease the implementation of FHA's various programs by consolidating and organizing all of FHA's Single Family policy into one document. FHA will be issuing other individual sections of the Handbook as they are completed. As part of the consolidation of policy pertaining to streamline refinance transactions, FHA has taken the opportunity to integrate the language pertaining to streamline refinance transactions in Mortgagee Letters 2013–29, 2011–11, 2009–32 and 2008–40 into a refined mortgage payment history and calculation of the maximum insurable mortgage for the streamline refinance program. Prior to adopting in the Handbook as final this refined maximum insured mortgage calculation for streamline refinance transactions, HUD seeks public comment on this language as presented in the Handbook.

DATES: *Comment Due Date:* November 10, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this document to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the document.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Elissa Saunders, Deputy Director, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9278, Washington, DC 20410; telephone number 202–708–2121 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Payment history standards related to streamline refinances are currently found in Handbook HUD 4155.1, entitled Mortgage Credit Analysis for Mortgage Insurance on One- to Four-Unit Mortgage Loans, in sections 3.A.1.h., but have subsequently been modified by Mortgagee Letters, including those referenced above. The Maximum Insurable Mortgage Calculation for streamline refinances is found in section 3.C.2.c.

In an effort to ease program implementation and reduce burden on lenders, servicers, borrowers, and interested members of the public, FHA, as noted in the Summary of this document, is consolidating and reorganizing its guidance into a new, comprehensive FHA Single Family Housing Policy Handbook (Handbook), which, once effective, will supersede all mortgagee letters and prior handbook provisions whose content has been incorporated into the Handbook. This consolidation and reorganization alleviates unnecessary burdens on lenders, servicers, and borrowers who have had to keep track of individual policy changes published in individual mortgagee letters, and gives all interested parties one place to find important program requirements.

The Handbook section for Title II Insured Housing Programs Forward Mortgages—Origination through Post-Closing/Endorsement was issued on September 30, 2014, at *http://portal.hud.gov/hudportal/documents/huddoc?id=40001HSGH.pdf* and will be effective for case numbers assigned on or after June 15, 2015. Due to the timing of the pre-scheduled release of the Handbook and the complexity of incorporating and organizing the various guidance documents for streamline refinances noted above, and eliminating extraneous examples, HUD has opted, in an abundance of caution, to seek public comment on the refined maximum mortgage amount calculation provision and payment history for the streamline refinance program which can be found in Paragraphs (4)(b) and (j) of II.A.8.d.vi.(C) ''Streamline Refinances'' in the Title II Insured Housing Programs Forward Mortgages section of the Handbook. The public comments received on these provisions will be given consideration, and notification will be provided of changes, if any, made to this section of the Handbook.

Given the significant transition period that FHA is providing between the posting of the Handbook and the effective date of the Handbook, FHA does not anticipate having to change the effective date as a result of any changes