Dated: March 22, 2011.

David Epperson,

Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. 2011–7595 Filed 3–30–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Revision of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection for Review; Secure Communities IDENT/IAFIS Interoperability State and Local Agency Assessment; OMB Control No. 1653–0040.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE), will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until May 31, 2011.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Office of the Chief Financial Officer/OAA/Records Branch, U.S. Immigration and Customs Enforcement, 500 12th Street, SW., STOP 5705 Washington, DC 20536–5705.

Comments are encouraged and will be accepted for sixty days until May 31, 2011. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a currently approved information collection.

(2) *Title of the Form/Collection:* Secure Communities IDENT/IAFIS Interoperability State and Local Agency Assessment.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form 70–003, Form 70–004, Form 75–001 and Form 75–002; U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State and Local Correctional Facilities and Officials. 8 U.S.C. 1231(a) gives the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) authority to remove criminal aliens who have been ordered as such. DHS/ICE is improving community safety by transforming the way the Federal government cooperates with state and local law enforcement agencies to identify, detain, and remove all criminal aliens held in custody. Secure Communities revolutionizes immigration enforcement by using technology to share information between law enforcement agencies and applying risk-based methodologies to focus resources on assisting all local communities remove high-risk criminal aliens. In order for the Secure Communities Initiatives to meet its goals, ICE must collect detailed business requirements and input from its state and local law enforcement partners. This assessment determines the fingerprint procedures and technological capabilities of state and local jails governance, as well as basic jail booking statistics. This information is used in order to prioritize local sites and deliver the implementation strategy of the Secure Communities Initiative.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

No. of respondents	Form name/Form No.	Average burden per response (in hours)
3,500	Secure Communities Initiative Survey—State/Form 70–003	0.3333
3,500	Secure Communities Initiative Survey—Local/Form 70–004	0.3333
300	Secure Communities Initiative Survey—DOC Facilities 75–001	0.3333
56	Secure Communities Initiative Survey—DOC Officials/Form 75–002	0.3333

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,453 annual burden hours.

Comments and/or questions; requests for a copy of the proposed information collection instrument, with instructions; or inquiries for additional information should be directed to: Office of the Chief Financial Officer/OAA/Records Branch, U.S. Immigration and Customs Enforcement, 500 12th Street, SW., STOP 5705 Washington, DC 20536–5705.

Dated: March 25, 2011.

John Ramsay,

Forms Program Manager, Office of Asset Administration, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2011–7550 Filed 3–30–11; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5450–N–03]

RIN 2502–ZA09

Federal Housing Administration (FHA): Notice of FHA PowerSaver Home Energy Retrofit Loan Pilot Program

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

ACTION: Notice.

SUMMARY: This notice announces HUD's FHA Home Energy Retrofit Loan Pilot Program (Retrofit Pilot Program or Pilot Program) known as FHA PowerSaver. The Consolidated Appropriations Act, 2010 directs HUD to conduct an Energy Efficient Mortgage Innovation pilot program targeted to the single family housing market. The Retrofit Pilot Program meets this statutory directive and provides funding to support that effort. The announcement of this pilot program follows a November 10, 2010, **Federal Register** notice in which HUD submitted for public comment its proposal to conduct the Retrofit Pilot Program. This announcement of the final structure of the Pilot Program takes into consideration the public comments received in response to the November 10, 2010, notice.

DATES: *Effective Date:* May 2, 2011May 2, 2011

FOR FURTHER INFORMATION CONTACT: Patricia McBarron, Office of Single Family Housing Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410–8000; 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 Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On November 10, 2010 (75 FR 69112), HUD published in the **Federal Register** a notice that announced its proposal to conduct the Retrofit Pilot Program. The Consolidated Appropriations Act, 2010 (Pub. L. 111–117, approved December 16, 2009, 123 Stat. 3034) (2010 Appropriations Act), which appropriated Fiscal Year (FY) 2010 funds for HUD, among other agencies, appropriated $50 million for an Energy Innovation Fund to enable HUD to catalyze innovations in the residential energy efficiency sector that have the promise of replicability and help create a standardized home energy efficient retrofit market. Of the $50 million appropriated for the Energy Innovation Fund, the 2010 Appropriations Act stated that "$25,000,000 shall be for the Energy Efficient Mortgage Innovation pilot program directed at the single family housing market." (*See* Pub. L. 111–117, at 123 Stat. 3089.)

As discussed in detail in the November 10, 2010, notice, in considering how to structure the pilot program directed by the 2010 Appropriations Act, HUD looked to the findings of the Administration's Recovery Through Retrofit Report,[1] which specifically addressed retrofitting homes for energy efficiency, and the suitability of building the pilot program by supplementing FHA's Title I Property Improvement Loan Insurance program (Title I program). HUD determined that both the Administration's Recovery through Retrofit Report and FHA's Title I program provided the appropriate foundation for structuring the Retrofit Pilot Program. (See 75 FR 69113–69114.) With respect to the Title I program, HUD determined that utilizing the existing FHA Title I program, with additional grant funds and new requirements, is the most efficient and effective opportunity it could deploy to deliver federally insured financing to homeowners in markets that are ready and able to utilize it.

FHA's Title I program is authorized by section 2 of Title I of the National Housing Act (12 U.S.C. 1703), and its regulations are codified in 24 CFR part 201.

II. The November 10, 2010, Proposal

As provided in the November 10, 2010, notice, FHA's goals for the Retrofit Pilot Program are: (1) To facilitate the testing and scaling of a mainstream mortgage product for home energy retrofit loans that includes liquidity options for lenders, resulting in more affordable and widely available loans than are currently available for home energy retrofits; and (2) to establish a robust set of data on home energy efficiency improvements and their impact—on energy savings, borrower income, property value, and other metrics—for the purpose of driving development and expansion of mainstream mortgage products to support home energy efficiency retrofits. After determining the viability of the Title I program to achieve these goals, FHA also determined that several changes to the program are necessary for the purposes of the Retrofit Pilot Program. These changes are described in detail in Section II.F. of the November 10, 2010, notice. (*See* 75 FR 69115).) Broadly, the modifications to the Title I regulations are intended to protect consumers, provide low-cost financing, and generate lender and secondary market participation in home energy retrofit loans.

In the November 10, 2010, notice, HUD solicited public comment on the proposed structure of the Retrofit Pilot Program, and also invited interested lenders to advise HUD of their interest, as described in Appendix A of the notice, so that HUD may contact them and explore their interest and the possibility of their participation in the pilot program.

At the close of the public comment period on December 27, 2010, HUD received 49 public comments. HUD reviewed the comments, which are addressed in section IV of this notice, and made some changes to the Retrofit Pilot Program in response to public comment and further consideration of issues by HUD. The changes made to the Retrofit Pilot Program are addressed in Section III, which immediately follows.

III. Changes to the Proposed Retrofit Pilot Program

HUD has made the following changes to the November 10, 2010, notice:

1. *Lender grant funds.* The final notice specifies all of the purposes for which lenders may use grant funds. They are: (1) Supporting costs associated with creating or enhancing staffing and/or systems necessary to deliver or report on PowerSaver-insured loans; (2) Funding costs of loan marketing, origination, and/or underwriting; (3) Offsetting costs associated with appraisals and other approved methods of property valuation; and (4) For lenders that will also service their own loans, reducing servicing costs.

In addition, this notice clarifies that HUD grant funds may not be used to directly subsidize or otherwise "write-down" the interest rate on PowerSaver loans. Non-Federal grant funds may be used for this purpose.

2. *Eligible properties (definition of "single family property improvement loans").* This notice broadens the definition of eligible properties to include both attached and semidetached single unit, owner-occupied principal residences, in addition to detached properties of that type. Further, HUD has clarified that condominium units that otherwise meet the criteria of an eligible single family property are also

[1] On October 19, 2009, the Administration released the Recovery Through Retrofit Report (RTR Report), which builds on the foundation laid out in the American Recovery and Reinvestment Act (Pub. L. 111–5, approved February 17, 2009) to expand green job opportunities in the United States and boost energy savings for middle class Americans by retrofitting homes for energy efficiency. The White House Council on Environmental Quality, along with 12 federal departments and agencies (including HUD) and 6 White House offices, developed the report through an interagency process. The RTR Report recognizes that the funding of residential retrofit projects will help create jobs for retrofit workers, while also helping homeowners save money by lowering their utility bills. The report can be found at *http://www.whitehouse.gov/assets/documents/Recovery_Through_Retrofit_Final_Report.pdf.*

eligible properties under the pilot program.

3. *New eligible improvements.* This notice adds replacement windows that meet the most recent Energy Star specifications to the list of eligible improvements that may be funded with a PowerSaver loan.

4. *Revisions to eligible improvements listed in the November 10, 2010, notice.* This notice makes the following revisions with respect to eligible improvements listed in the November 10, 2010, notice:

a. Ground source heat pump systems (instead of "geothermal heat pumps" as in the November 10, 2010, notice) must be installed in accordance with ANSI/ACCA Standard 5 QJ–2010; and

b. Wind turbines must:

(i) Have a nameplate capacity of not more than 100 kilowatts;

(ii) Have performance and safety certification to:

- The International Electromechanical Commission (IEC) standards from an accredited product certification body, or
- Certification to the American Wind Energy Association (AWEA) standards from the Small Wind Certification Council (SWCC) or a nationally recognized testing laboratory; and

(iii) Be installed by an installer with North American Board of Certified Energy Practitioners Small Wind Installer Certification or small wind turbine installation training from an accredited training organization.

5. *Use of loan proceeds to fund other improvements.* Section V.F.4(b) of the notice also specifies that homeowners may use up to 25 percent of PowerSaver loan proceeds to fund, with certain specified exceptions, property improvements identified in Title I Letter 470 as eligible improvements under the Title I program. A copy of Title I Letter 470 may be downloaded at: *http://www.hud.gov/offices/adm/hudclips/letters/title1/index.cfm.*

6. *Property valuation.* This notice specifies that lenders may use a Fannie Mae and Freddie Mac Form 2055 Exterior-Only Inspection Residential Appraisal Report (most recent version) to determine property value for the purposes of establishing property valuation. The notice also specifies that lenders may be able to use Automated Valuation Models (AVMs) to establish property value for certain borrowers, subject to FHA approval on a case-by case basis. HUD will discuss this issue further with lenders in the review of their Expression of Interest. HUD notes, however, that potential purchasers of PowerSaver loans from originating lenders may have additional or more restrictive criteria regarding the use of AVMs, which lenders seeking to sell loans to such entities may be required to meet.

7. *Charges to borrower to obtain a loan.* This notice specifies the list of charges and fees that may be charged in connection with a PowerSaver loan and which may be financed as part of a PowerSaver loan.

8. *Criteria for dealer loans.* This notice generally affirms that "dealer loans" are not allowed as part of the PowerSaver pilot. However, home improvement contractors may provide information to homeowners as to how they may obtain a PowerSaver loan, including the identity of lenders who are participating in the program.

9. *Insurance claim procedure.* This notice continues to provide that the holder of the note will be accountable to HUD for origination/underwriting errors, and that the servicer will be accountable to HUD for servicing errors, as long as the servicer is a HUD-approved lender. However, based on further internal HUD consideration on how best to effectuate this requirement, this notice clarifies that the insured lender must enter into an agreement with its servicer, under which the servicer agrees to be liable to HUD for such errors, and which identifies HUD as a third-party beneficiary of such agreement.

IV. Discussion of Public Comments on the Proposed Retrofit Pilot Program

Comments were submitted by lenders and representatives of the lending industry; home performance contractors and representatives of the home performance/contracting industry (including one pension fund); local officials and representatives of state energy agencies; environmental and public health organizations; providers of energy services and technologies; community development financial institutions; and members of the general public. This section presents a summary of the significant issues raised by the commenters on the November 10, 2010, notice and HUD's responses to these issues.

A. Comments on Geographic Scope

In listing the locations that received funding under the Department of Energy (DOE) Better Buildings program, all of which are automatically eligible locations for lenders to serve in the pilot program, the Proposed Notice inadvertently excluded Nashville, Tennessee, from the list. This notice corrects this error; Nashville is an automatically eligible location for a lender to serve under the pilot program. In addition, in December 2010, DOE announced that the following State Energy Programs were integrated into BetterBuildings: Alabama, Maine, Massachusetts, Michigan, Nevada, Washington, and Virginia. As a result, these states are automatically eligible locations for lenders to serve under the pilot program.

Finally, this notice provides that areas where the Home Performance with Energy Star program is available are automatically eligible locations for lenders to serve under the pilot program.

Several commenters suggested that certain communities that are not covered under DOE's Better Buildings Program should be eligible markets for lenders to serve in the pilot program. As noted in the November 10, 2010, notice, HUD strongly encourages lenders to serve such markets, provided lenders can demonstrate, through their Expressions of Interest in participating, that such locations are viable markets for the deployment of PowerSaver-insured loans. On December 16, 2010, HUD posted additional guidance on its Web site to assist lenders in this area: *http://www.hud.gov/offices/hsg/sfh/title/additionalsaverinformation.pdf.*

B. Comments on Lender Eligibility

Several commenters recommended that HUD allow institutions that may not be FHA-approved lenders, such as community development financial institutions and state energy agencies, to be eligible lenders under the pilot program. HUD hopes and expects that a wide range of entities will express interest in participating in the pilot program, including entities that have not participated in FHA programs in the past. However, as required by the National Housing Act, any entity that wishes to make loans insured by FHA under the pilot program must hold a valid Title I contract of insurance and be approved by the Secretary. HUD notes that approved Title II lenders may obtain Title I eligibility under an expedited process.

C. Comments on Lender Grant Funds

Several commenters suggested uses of the incentive grant funds available to lenders under the pilot program in addition to the uses specified in the November 10, 2010, notice. Some commenters recommended allowing grant funds to be used to support a lender's costs associated with creating or enhancing systems necessary to deliver PowerSaver loans.

HUD agrees with this suggestion and this notice specifies that such use is allowed with grant funds under the pilot program. In addition, this notice specifies that lenders may use grant funds to offset costs associated with appraisals.

Several commenters suggested that HUD grant funds be available to lenders to set up loan loss reserves. Due to the current insurance structure, HUD does not view this as a viable or optimal use of HUD grant funds for the purposes of the pilot program and declines to make this change. HUD notes that many communities have access to other funds through DOE and other sources that may be available for such purposes. HUD is encouraging lenders to work in partnership with other entities through the pilot program and will evaluate lender Expressions of Interest to participate in part on the extent to which lenders propose to do so. HUD's intention is to provide lenders the flexibility to use funds so long as any use delivers demonstrable benefit to borrowers, such as by making loans more affordable or available. One commenter recommended that HUD ensure that lenders who propose to use grant funds to lower the interest rate on PowerSaver loans they originate do not "over subsidize" loans. HUD will work closely with each lender to size and scope the lender's grant payments so that the payments have the most beneficial impact in the market. As stated in the November 10, 2010, notice, the amount of payment to each lender and the eligible uses of funds by each lender will be determined by HUD based on the lender's Expression of Interest. A significant factor in determining payment amounts to each lender will be the number of loans the lender anticipates making during the 2-year period of the pilot program. Lenders were required to report to HUD on their use of incentive payments funds.

D. Comments on Selection of Lenders

One commenter recommended that HUD require lenders to secure the approval of their Expressions of Interest from "existing energy efficiency program officials" before submitting them to HUD and suggested HUD share Expressions of Interest with "state energy offices" in states that each lender proposes to serve. HUD declines to make this change, as lender Expressions of Interest are nonbinding, and so may change as lenders finalize the details of their participation in discussions with HUD, and may contain proprietary information. The same commenter encouraged HUD to ensure participating lenders collaborate closely with state energy efforts and other initiatives that are currently supporting home energy improvements in markets the lender proposes. HUD does in fact intend to do this, as suggested in the November 10, 2010, notice (with reference to the importance of partnerships with public sector agencies), and will evaluate lender Expressions of Interest in part on this basis.

E. Comments on Eligible Properties (Definition of "Single Family Property Improvement Loans")

Several commenters recommended broadening the definition of eligible properties under the pilot program. The following property types were recommended: attached and semidetached single unit, owner-occupied principal residences; manufactured homes; and multifamily properties. HUD agrees with the suggestion to allow attached and semidetached single unit, owner-occupied principal residences, in addition to detached properties of that type. Such properties are fully within any common definition of "single family housing" and represent an important segment of the housing stock in many communities. This notice reflects this change. Further, HUD has clarified that condominium units that otherwise meet the criteria of an eligible single family property are also eligible properties under the pilot program.

HUD declines to make further changes to eligible property types. HUD fully agrees with the statements by commenters that many manufactured homes and multifamily properties and their residents would benefit from energy improvements. However, as noted in the November 10, 2010, notice, the PowerSaver pilot program is being implemented under the statutory directive from Congress to create a pilot program directed at the single family housing market.[2] HUD also notes that other HUD programs are designed to support manufactured and multifamily housing.

F. Comments on Eligible Use of Loan Proceeds

Several commenters addressed the subject of eligible uses of loan proceeds. Some commenters recommended that the list of eligible improvements directly related to home energy performance be revised and expanded. Others recommended that HUD allow borrowers flexibility to use loan proceeds to fund costs associated with improvements that are not on the list. With respect to the first set of comments, HUD has made a revision to the list of eligible improvements. Specifically, this notice adds replacement windows that meet the most recent Energy Star specifications to the list of eligible improvements that may be funded under the PowerSaver program.

In addition, this notice makes the following revisions with respect to eligible improvements on the list provided in the November 10, 2010, notice:

1. Ground source heat pump systems (instead of "geothermal heat pumps" as in the November 10, 2010, notice) must be installed in accordance with ANSI/ACCA Standard 5 QJ–2010; and

2. Wind turbines must:

(a) Have a nameplate capacity of no more than 100 kilowatts;

(b) Have performance and safety certification to:

• The IEC standards from an accredited product certification body, or
• Certification to the AWEA standard from the SWCC or a nationally recognized testing laboratory; and

(c) Be installed by an installer with North American Board of Certified Energy Practitioners Small Wind Installer Certification or small wind turbine installation training from an accredited training organization.

Other commenters recommended that the list of eligible improvements include "home energy management systems" and "home lighting systems." HUD declines to make these changes. While HUD agrees that improvements consistent with these terms can improve home energy performance, Title I Letter 470 provides that property improvement for the purposes of the program must "[i]n general * * * be permanent, hard wired or hard plumbed to the property." Another commenter recommended stronger and more prescriptive requirements with respect to insulation, sealing, skylights, and air conditioning systems. HUD declines to make these changes. HUD believes that these recommendations generally represent a more aggressive set of requirements than is reasonable and necessary to apply across the board to a national pilot program. HUD recognizes that in every area of energy-related home improvements, technology and practice is continually improving. At this early stage in the development of a market for energy efficient home improvements, HUD believes the list of eligible improvements as revised in this notice strikes the right balance between improving home energy performance and ensuring a sufficiently broad range of homeowners and communities can benefit from the pilot program.

[2] The Consolidated Appropriations Act, 2010 (Pub. L. 111–117, approved December 16, 2009, 123 Stat. 3034). Specifically, *see* Public Law 111–117, at 123 Stat. 3089.

One commenter recommended that power purchase agreements (PPAs) or contracts with third-party owners to use electricity generated by on-site photovoltaic systems, be allowed as eligible improvements, subject to certain conditions. HUD is supportive of innovative efforts to expand the deployment of clean energy in the residential sector, specifically including through PPAs, subject to certain borrower disclosures and protections. The recommendation represents a broader interpretation than generally has been made of the term "property improvement." (The Title I program on which the pilot program is based is authorized to support property improvements.) HUD believes that this proposed recommendation is worthy of further consideration and is interested in better understanding the underwriting and operational issues, whether the recommendation is an eligible activity under the Title I program, and the risks and protections for homeowners as well as FHA. While HUD declines to make the recommended change at this time, it may reconsider this decision in the future based on additional analysis.

With respect to recommendations regarding more flexible use of loan proceeds, HUD agrees with commenters that flexibility is appropriate and likely necessary to encourage and enable many homeowners to fund home energy improvements, which many will likely do as part of a broader remodeling or renovation of their home. HUD also agrees with one commenter that suggested it would be important to ensure homeowners can make basic health and safety-related improvements at the time of a home energy improvement job. At a nascent stage of consumer awareness and interest in home energy improvements, HUD believes it is important to make financing products as appealing and marketable as possible, while maintaining the focus on the policy goal of more energy efficient homes. HUD notes that leading state and local home energy improvement loan programs, as well as the Fannie Mae Energy Loan product, allow significant flexibility in the use of loan proceeds on this basis.

Section V.F.4(b) of this notice specifies that homeowners may use up to 25 percent of PowerSaver loan proceeds to fund certain property improvements identified in Title I Letter 470 as eligible improvements under the Title I program. A copy of Title I Letter 470 may be downloaded at: *http://www.hud.gov/offices/adm/hudclips/letters/title1/index.cfm.*

HUD recognizes that such flexibility may add some complexity to aspects of the evaluation of the pilot program. However, HUD believes the reporting requirements of the program, which will generate data on the specific energy improvement measures funded with each loan, will be sufficient to meet the evaluation goals in this area.

Also with respect to eligible uses of loan proceeds, several commenters recommended that HUD require that homeowners avail themselves of a home energy audit or rating to be eligible for a PowerSaver loan. HUD declines to require audits/ratings in connection with PowerSaver loans at this time. Audit/rating approaches, protocols, technologies, and data appear to vary substantially. HUD is concerned that there is not an industry consensus or uniform standard for energy audits/ratings. (HUD notes that one commenter suggested such standards are in development by one industry group and may be available in early 2011; HUD will be interested in following this development.) DOE is currently piloting the new Home Energy Score program, which includes an energy audit component. Once the Home Energy Score pilot program is complete, HUD may revisit the required use of an energy audit. In addition, it is HUD's understanding that comprehensive audits/ratings can cost as much as $500, adding a significant additional expense; one commenter suggested allowing the cost of audits to be financed as part of the PowerSaver loan. For these reasons, a required audit or rating, as recommended, may disadvantage certain homeowners and communities.

HUD generally agrees with these commenters that audits/ratings can enable homeowners to better understand the most cost effective energy savings improvements for their particular home. For these reasons, the November 10, 2010, notice strongly encouraged the use of audits; this notice affirms this encouragement. Furthermore, as suggested in the November 10, 2010, notice, HUD will consider the extent to which audits will be required or encouraged by lenders in lender Expressions of Interest to participate in the pilot program. In addition, this notice allows the cost of an energy audit/rating to be financed as part of the PowerSaver loan.

G. Comments on Property Valuation

Several commenters addressed the property valuation requirement, which is necessary to ensure homeowners do not have total mortgage debt (including the PowerSaver loan) in excess of the current value of their home at the time of PowerSaver loan origination. One commenter recommended that HUD allow lenders to use a Fannie Mae and Freddie Mac Form 2055 Exterior-Only Inspection Residential Appraisal Report, on which the November 10, 2010, notice specifically solicited comment. This notice adopts this recommendation. Some commenters also recommended that Automated Valuation Models (AVMs) be allowed for use in establishing property valuation. HUD recognizes that AVMs can be an effective tool in certain markets and may be appropriate to use with respect to borrowers who have built some equity in their homes. The notice specifies that lenders may use AVMs to establish property value for certain borrowers, subject to FHA approval, on a case-by-case basis. HUD will discuss this issue further with lenders in the review of their Expression of Interest.

Some commenters raised the concern that appraisals would add inordinate cost to a PowerSaver loan and to the time to close a loan. HUD is sensitive to this concern and agrees that the cost and time associated with appraisals may pose a challenge to the marketability of PowerSaver loans. The availability of various options for determining property valuation, as noted above, addresses this concern. A sound basis for determining property value is essential for determining a borrower's combined-loan-to-value ratio and for establishing PowerSaver loans as viable for capital markets investment and liquidity, which is a stated goal of the pilot program. As noted above, lenders may propose to use incentive grant funds to offset costs associated with appraisals and other approved methods of property valuation. In addition, this notice specifies that appraisal costs may be financed as part of the PowerSaver loan.

Some commenters recommended that an energy audit suffice for establishing the property value. HUD declines to makes this change, as energy audits are not currently recognized by the housing finance industry as a viable tool for determining home value. HUD is interested in working with stakeholders and exploring the extent to which energy audits may be able to provide reliable information to inform determinations of home value and borrower ability to afford and repay mortgage loans. Finally, one commenter suggested that an audit should eliminate an appraisal requirement for an unsecured PowerSaver loan. The notice clarifies that, as under the Title I Property Improvement program, PowerSaver loans of less than $7,500 are not required to be secured and appraisal is not required for such loans.

H. Credit Requirements for Borrowers

Some commenters recommended modest tightening or relaxing of the minimum credit score and maximum total debt-to-income for borrowers receiving PowerSaver loans. HUD declines to make any changes to these features of the program at this time. Homeowners' response and loan performance, among other factors, during the pilot program may warrant adjustments to credit requirements in the future.

I. Requirements for Dealer Loans

Several commenters suggested that HUD allow "dealer loans," as defined by the FHA Title I Property Improvement Home Loan program, be allowed under the PowerSaver pilot program. The Title I Property Improvement Home Loan program regulations at § 201.2 define a "dealer loan" as "a loan where a dealer, having a direct or indirect financial interest in the transaction between the borrower and the lender, assists the borrower in preparing the credit application or otherwise assists the borrower in obtaining the loan from the lender." HUD agrees with these commenters that responsible home improvement contractors can be effective in educating homeowners about home energy loan financing options, which is typically important to maintaining homeowner interest in a financing option.

While HUD declines to make this change, home improvement contractors may provide information to homeowners as to how they may obtain a PowerSaver loan, including the identity of lenders who are participating in the program.

J. Evaluating the Success of the Retrofit Pilot Program

Several commenters made recommendations regarding HUD's planned evaluation of the PowerSaver pilot program. Some suggested that HUD require homeowners to sign a disclosure in connection with a PowerSaver loan to allow access to pre- and post-installation utility bill information. HUD recognizes the importance of accessing utility bill information and is exploring options for accessing it in a manner that ensures homeowner privacy. This notice does not require homeowners to provide utility bill information; HUD will discuss this issue individually with participating lenders in the review of lender Expressions of Interest.

One commenter suggested that HUD participate in efforts by DOE, the Environmental Protection Agency, and industry groups to develop metrics and standards for data collection and program evaluation and to coordinate to the extent feasible with DOE's Home Energy Score Pilot Program. HUD appreciates and agrees with this recommendation and has already been in discussions along these lines with DOE and others.

K. Other Comments

Several commenters recommended increasing the maximum loan amounts overall or with respect to unsecured loans. HUD declines to make changes to the loan limits. HUD believes that the $25,000 loan limit is sufficient to cover all or most of the cost of a comprehensive retrofit or the cost of a renewable energy system—and in the latter case a variety of subsidies and incentives are available to fund costs that the loan cannot. With respect to unsecured loans, the primary purpose of the PowerSaver pilot program is to establish the viability of a mainstream mortgage product for home energy improvement loans; unsecured loan products and credit card options of various types are already available in the market. Because the current Title I Property Improvement Home Loan program does not require loans under $7,500 to be secured, primarily because it would add infeasible cost to such small loans, HUD is retaining that feature, with no change, and no additional incentives to originate (as one commenter recommended) in the PowerSaver pilot program.

Some commenters broadly suggested that HUD require contractors who perform home energy improvements funded by PowerSaver loans to be certified on some basis or that broader "quality assurance" procedures be required. HUD is sympathetic to the concerns expressed by the commenters and generally agrees that high quality assurance procedures can enhance the prospects that a home improvement job will be performed properly and professionally. HUD understands that a number of communities implementing comprehensive home energy improvement programs are imposing or incentivizing such requirements.

HUD will ask lenders that submit Expressions of Interest in participating in the program to describe the extent to which contractor certification and overall quality assurance is reflected in programs serving the lender's proposed target market(s) and will evaluate Expressions of Interest in part on this basis. In addition, HUD will encourage lenders to adopt sound practices in this area. Such practices include:

(1) Verification that contractors have demonstrated business experience as home improvement contractors;

(2) Documentation on file of basic information such as trade name, places of business, type of ownership, type of business, and names and employment histories of the owners and staff;

(3) Provision of current financial statement prepared by someone who is independent of the contractor and is qualified by education and experience to prepare such statements, and a commercial credit report on the contractor;

(4) Procedures for supervising and monitoring contractors' activities with respect to loans insured under the Pilot Program; and

(5) Evidence of homeowner satisfaction with work performed by the contractor under the Pilot Program.

HUD declines to make these or other quality assurance requirements mandatory, however. HUD believes that such a requirement would add unnecessary administrative burden on lenders in the Pilot Program. In addition, HUD expects that it will be able to work closely with lenders, as well as local communities, to monitor and help ensure quality assurance under the Pilot Program given that only a limited number of lenders will participate. In addition, HUD may revisit the issue of quality assurance during its evaluation of the pilot program to determine whether changes should be made to the Pilot Program along the lines suggested by the commenters.

Several commenters encouraged HUD to implement a "streamlined application procedure" for PowerSaver loans. HUD recognizes the importance of ensuring homeowners can close on PowerSaver loans in a timely manner. HUD will utilize the Title I Property Improvement Home Loan program platform and system for the PowerSaver pilot program. This system, while different from the system used for FHA Title II loan products, should enable lenders to make a timely turnaround of loan applications. In addition, HUD will consider lenders' expected loan procedures and expected turnaround time in evaluating their Expressions of Interest to participate in the pilot program.

One commenter suggested that HUD allow PowerSaver loans to be in third lien position in cases where the borrower has a home mortgage loan in first position, a home equity loan in second position, and sufficient home equity to take on a PowerSaver loan without exceeding 100 percent combined loan to value. HUD declines to make this change; the Title I regulations at 24 CFR 201.24(a)(1)(iii) specify that, in general, liens securing Title-insured loans "need not be a first lien on the property; however the lien securing the Title I loan must hold no less than the second lien position." The regulations authorize a Title I loan to hold a third lien position in specified limited circumstances: (1) Where the first and second mortgage were made at the same time; or (2) the second mortgage was provided by a state or local agency in conjunction with a downpayment assistance program.

V. The Home Energy Retrofit Loan Pilot Program (FHA PowerSaver)

A. Authority

The Retrofit Pilot Program is authorized by the Energy Innovation Fund of the 2010 Appropriations Act, which directs HUD to conduct an Energy Efficient Mortgage Innovation pilot program targeted to the single family housing market (Pub. L. 111–117, at 123 Stat. 3089). The Pilot Program is based on the requirements of Title I, section 2 of the National Housing Act (12 U.S.C. 1703). Under section 2(a) of the National Housing Act, HUD is authorized to provide loan insurance in order to help homeowners finance alterations, repairs, and improvements in connection with existing structures or manufactured homes. HUD's implementing regulations are codified at 24 CFR part 201.

B. Duration and Geographic Scope

1. *Duration.* The Retrofit Pilot Program will be conducted for loans originated during a period of 2 years commencing on May 2, 2011. HUD, however, may extend the duration of the Pilot Program, after its commencement, beyond the 2-year period to accurately assess the Pilot's effectiveness. In making such determination, HUD will look closely at the results of its evaluation of the program as described in Section VI of this notice. HUD will announce any such extension through **Federal Register** notice.

2. *Geographic scope.* The success of the Retrofit Pilot Program and its potential to inform further efforts to expand financing for energy efficient home retrofits will be advanced by focusing on properties located in communities that have already taken affirmative steps to address energy efficiency retrofits. HUD is aware that a number of communities have already developed the programmatic infrastructure to help ensure that the critical nonfinancial components of a holistic retrofit initiative are in place. In selecting communities in which to conduct the Pilot Program, HUD will target communities that have already developed a robust home energy efficiency retrofit infrastructure.

DOE's Energy Efficiency and Conservation Block Grants (EECBG) program is authorized under Title V, Subtitle E of the Energy Independence and Security Act (EISA), signed into law on December 19, 2007. Through formula and competitive grants administered by DOE, this program empowers local communities to make strategic investments to meet the Nation's long-term goals for energy independence and leadership on climate change.

With funding for the EECBG program provided by the American Recovery and Reinvestment Act, DOE initiated the Retrofit Ramp-up Program, now known as the Better Buildings program, a demonstration program directed to stimulating activities and investments that can: (1) Deliver verified energy savings from a variety of projects in the local jurisdiction of the applicant, with a particular emphasis on efficiency improvements in residential, commercial, industrial, and public buildings; (2) achieve broader market participation and greater efficiency savings from building retrofits; (3) highly leverage grant funding in order to significantly enhance the resources available for supporting the program; (4) sustain themselves beyond the grant monies and the grant period by designing a viable strategy for program sustainability; (5) serve as pilot building-retrofit programs that demonstrate the benefits of gaining economy of scale; and (6) serve as examples of comprehensive community-scale energy-efficiency approaches that could be replicated in other communities across the country.

Under the Better Buildings Program, approximately $485 million was allocated by DOE through competitive grants to initiatives in the following locations: Austin, TX; Berlin, Cambridge, Chestertown, Cumberland, Denton, Easton, Elkton, Frostburg, Oakland, Princess Anne, Dundalk, Westminster, Havre de Grace, Salisbury, Takoma Park, and University Park, MD; Fayette County, PA; Bedford, NY; Berlin, Nashua, and Plymouth, NH; Boulder County, City and County of Denver, Garfield County, and Eagle County, CO; Camden, NJ; Chicago region, IL; Cincinnati, Ohio, and northeast Kentucky; a consortium of 14 Connecticut Towns: Bethany, Cheshire, East Haddam, East Hampton, Glastonbury, Lebanon, Mansfield, Portland, Ridgefield, Weston, Westport, Wethersfield, Wilton, and Windom; Detroit, Grand Rapids, and southeast MI; Greensboro, NC; Indianapolis and Lafayette, IN; Kansas City, MO; Los Angeles, San Francisco Bay Area, Sacramento, San Diego, and Santa Barbara County, CA; Lowell, MA; Madison, Milwaukee, and Racine, WI; Maine statewide; Missouri statewide; Nashville, TN; New York statewide; Omaha and Lincoln, NE; Oregon statewide; Philadelphia, PA; Phoenix, AZ; Riley County, KS; San Antonio, TX; Seattle, and Bainbridge Island, WA; select Southeastern cities: Atlanta, GA; Carrboro, Chapel Hill, and Charlotte, NC; Charleston SC; Charlottesville, VA; Decatur, GA; Hampton Roads/Virginia Beach, VA; Huntsville, AL; Jacksonville, FL; New Orleans, LA; Toledo, OH; and the U.S. Virgin Islands. In addition, in December 2010, DOE announced that the following State Energy Programs were integrated into BetterBuildings: Alabama, Maine, Massachusetts, Michigan, Nevada, Washington, and Virginia.

The locations listed above are all eligible markets for lenders to serve in the Pilot. In addition, this notice provides that areas where the Home Performance with Energy Star program is available are automatically eligible locations for lenders to serve under the pilot program. Those areas are listed here: *http://www.energystar.gov/index.cfm?c=home_improvement.hm_improvement_hpwes_partners.*

FHA will consider lenders' interest in other communities, subject to an assessment of such communities' infrastructure for implementing residential retrofit programs. As noted in the November 10, 2010, notice, HUD strongly encourages lenders to serve such markets, provided lenders can demonstrate, through their Expressions of Interest in participating, that such locations are viable markets for the deployment of PowerSaver-insured loans. On December 16, 2010, HUD posted additional guidance on its Web site to assist lenders in this area: *http://www.hud.gov/offices/hsg/sfh/title/additionalsaverinformation.pdf.* HUD expects to consult with DOE in such cases.

HUD considered targeting the pilot to a smaller number of markets, which may have increased the likelihood of lender competition within some markets, potentially benefitting consumers. HUD determined that such an approach could limit the number and diversity of lenders that could participate in the program overall, however. HUD determined it was important for the Pilot to be open to a reasonably wide range of lenders—by size and type, as well as service area—especially given the challenging conditions facing lenders in the current environment, which may create barriers to participation for some, even if interested. In selecting lenders to participate, HUD will evaluate the extent to which lenders intend to provide loans at the most favorable rate to consumers, thus directly addressing a major benefit that lender competition would potentially foster.

C. Lender Eligibility

Lender participation in the Retrofit Pilot Program is voluntary. Of the pool of interested lenders that meet the criteria described in Section II of the November 10, 2010, notice and reiterated below, HUD intends to select a limited number of lenders to participate in the Retrofit Pilot Program. HUD is currently undertaking efforts to identify FHA-approved lenders that may be suitable candidates for participation in the Retrofit Pilot Program. HUD reserves the right to terminate a lender's participation in the Retrofit Pilot Program for unacceptable performance. Examples of unacceptable lender performance could include violating the program's underwriting and credit criteria, failing to meet HUD reporting requirements, and high defaults among originated loans under the program. To be eligible, lenders must satisfy the following criteria:

1. *Approval as an FHA Title I or Title II program lender.* Lenders must hold valid Title I contracts of insurance and be approved pursuant to the requirements of 24 CFR part 202 to originate, purchase, hold, service, or sell loans insured under the Title I program regulations at 24 CFR part 201. However, approved Title II lenders may obtain Title I eligibility under an expedited process by contacting HUD and submitting the Title I approval package described at *http://www.hud.gov/offices/hsg/sfh/lender/title1ap.cfm.*

2. *Experience with similar lending initiatives.* Lenders must be able to demonstrate experience with the type of lending initiative being undertaken in the Retrofit Pilot Program. In particular, HUD will consider the extent to which lenders have experience in successfully originating and/or servicing small loans, home equity loans, second liens, FHA section 203(k) rehabilitation loans, and Title I Property Improvement Loans. Lenders that do not have experience in such lending may still be able to participate in the Pilot Program to the extent they can demonstrate how their other experience is relevant to determining their ability to participate in the pilot, and provided they agree to meet the Title I requirements before participation in the pilot program.

3. *Computer system capabilities.* Lenders must have the technical capability to interface with FHA through FHA Connection. In addition, lenders must have the technical capability to interface with any other computer systems utilized by FHA or its contractors pertaining to the Retrofit Pilot Program.

4. *Audit capabilities.* Lenders must have a demonstrated capacity to provide timely reports to FHA on origination and performance of retrofit loans. FHA envisions requiring monthly reports on loan and portfolio performance. In addition, a lender must be able to provide an electronic loan package to HUD for a random sample of loans chosen for quality reviews.

5. *Collaborative capacity.* Lenders must have demonstrated capacity to work with public sector agencies, nonprofit organizations, and utilities or home improvement contractors.

D. Lender Grant Funds

HUD recognizes that even with federal mortgage insurance such as would be available under the Pilot Program, small loans for home energy retrofits may have relatively high transaction costs for lenders, discouraging some from offering such loans and forcing others that do offer them to increase costs to borrowers. HUD will utilize the appropriated funds provided under the 2010 Appropriations Act to provide lender incentive payments to support activities that lower costs to borrowers. Eligible uses of such payments are: (1) Supporting costs associated with creating or enhancing staffing and/or systems necessary to deliver or report on PowerSaver insured loans; (2) Funding costs of loan marketing, origination, or underwriting; (3) Offsetting costs associated with appraisals and other approved methods of property valuation; and (4) For lenders that will also service their own loans, reducing servicing costs.

HUD will also consider other proposed uses of such funds. Any use of funds must show, to HUD's satisfaction, bona fide benefit to borrowers. The amount of payment to each lender and the eligible uses of funds by each lender will be determined by HUD based on the lender's Expression of Interest. A significant factor in determining payment amounts to each lender will be the number of loans the lender anticipates making during the 2-year period of the Pilot Program. Lenders will be required to report to HUD on their use of incentive payment funds. HUD anticipates that the amount of grant funds will not exceed $5 million per lender.

In addition, this notice clarifies that HUD grant funds may not be used to directly subsidize or otherwise "write down" the interest rate on PowerSaver loans. Non-Federal grant funds may be used for this purpose.

Grant funds may be available to lenders who request them, but are not required for participation. Lenders who do not seek funds may still participate in the Pilot Program.

E. Selection of Lenders

As noted above, lenders interested in potentially participating in the Retrofit Pilot Program were required to submit an Expression of Interest using the template in Appendix A and by following the instructions provided in the November 10, 2010, notice.

In evaluating Expressions of Interest and selecting lenders to participate, HUD will first review each Expression of Interest to verify that the lender is eligible to participate in the program. HUD will then evaluate the Expressions of Interest from all eligible lenders primarily by weighing the following factors in the Expression of Interest: (1) The lender's anticipated loan volume and target markets; (2) the lender's business model for participating in the pilot; (3) the lender's capacity (experience and/or potential) to work in public-private partnerships; and (4) the extent to which the lender intends to deliver the most favorable loan product to consumers. HUD anticipates that these primary weighting factors will have generally equal weighting significance. In addition, HUD may consider the following factors in selecting lenders to participate: (1) Diversity of lender type and target market; and (2) impact on low-income households and communities.

F. Differences Between Retrofit Pilot Program and Existing Title I Program

With the exceptions discussed below, the Retrofit Pilot Program will be governed by the Title I program regulations at 24 CFR part 201. This notice does not make any changes to the current Title I Property Improvement Program. The differences specified in this notice are only applicable to lenders selected to participate in the Pilot Program.

Lenders selected to participate in the Retrofit Pilot Program must enter into a Retrofit Pilot Program Agreement by which they commit to adhere to the Title I program regulations, except as modified in this notice and in subsequent refinements, such modifications being applicable only to loans insured under the Retrofit Pilot Program. There will also be other requirements applicable to the Retrofit Pilot Program; for example, insuring Retrofit Pilot Program loans only in communities selected for the Pilot Program.

In summary, the changes described below, in combination with the appropriated funds, have the effect of creating an innovative pilot program that accords with Congress' direction in the Act. These changes fall into the following categories: (1) Changes designed to enhance underwriting of program loans; (2) changes related to FHA administration of the program, specifically in the areas of loan servicing, claim procedures, and reporting; (3) changes to target the pilot program specifically for its purpose of improving home energy performance; and (4) changes to provide additional benefits to borrowers. Finally, as noted, FHA will augment these changes with grant funds for lenders, using funding appropriated under the 2010 Appropriations Act. In summary, these changes adjust the current flexible framework for the Title I program to enable it to encourage and directly support home improvements that improve energy performance, while reducing barriers to making financing under the program more widely available and more affordable.

1. *Definition 24 CFR 201.2.* For purposes of the Retrofit Pilot Program, the following terms have the following meanings.

a. *Single family property improvement loans.* Only "single family property improvement loans" as that term is defined in 24 CFR 201.2 are eligible for FHA insurance and the Retrofit Pilot Program. Properties must also be principal residences as defined in 24 CFR 201.2. For purposes of the Retrofit Pilot Program, the term includes detached, semidetached, and attached single family properties. Condominium units that otherwise meet the criteria of an eligible single family property are also eligible properties under the pilot program.

Loans used to finance the property improvements for manufactured homes and multifamily properties [3] are not eligible for the Retrofit Pilot Program, but remain eligible for Title I program insurance under 24 CFR part 201.

[3] Manufactured home improvement loan and multifamily property improvement loan are terms defined in § 201.2.

2. *Loan maturities (24 CFR 201.11).* Under the Title I program regulations at 24 CFR 201.11 an insured loan may have a term as long as 20 years. Under the Retrofit Pilot Program, loan terms generally will be limited to 15 years to better align the term of financing with the useful life of, and benefits from, most energy retrofit improvements. Under the Pilot Program, loan terms that are for 20 years can be used only for certain specified improvements: renewable energy measures, ground source heat pump systems, and other improvements as approved by HUD. *See* "Eligible use of loan proceeds" in Section V.D.4(b) below.

3. *Interest and discount points (24 CFR 201.13).* Under the Title I program regulations at 24 CFR 201.13, the lender may not require or allow any party, other than the borrower, to pay discount points or other financing charges in connection with the loan transaction. This restriction, while helping to assure that borrowers have a personal stake in the repayment of the loan, also has the effect of hindering state and local efforts to support home energy retrofits by lowering the cost of capital to consumers, such as through interest rate write-downs. The Retrofit Pilot Program expressly contemplates that third parties (including state and local governments, private organizations, and nonprofit organizations) may pay discount points or other financing charges in connection with the Title I loan transaction and encourages third parties to work with participating lenders on this basis. In addition, as noted, lenders may utilize HUD incentive payments for this purpose under the Pilot Program.

The interest shall be calculated on a traditional mortgage interest basis.

4. *Property improvement loan eligibility (24 CFR 201.20).*

a. *Borrower eligibility (24 CFR 201.20(a)).* As under Title I loans, Retrofit Pilot Program borrowers shall have at least a one-half interest in one of the following:

(i) Fee simple title of the property; or

(ii) A properly recorded land installment contract.

Unlike the Title I program, lessees of the property will not be eligible to participate in the Pilot Program. The limitation of eligibility to owner-occupied properties is designed to reduce the variables in the Pilot Program for purposes of evaluation, as well as to help ensure compliance with the minimum property loan-to-value ratios described in section V.F.5. below.

b. *Eligible use of the loan proceeds (24 CFR 201.20(b)).* Similar to the Title I program, loan proceeds shall be used only for the purposes disclosed in the loan application. Under the standard Title I loan, proceeds shall be used only to finance property improvements that substantially protect or improve the basic livability or utility of the property. Further, HUD has established a list of items and activities that may not be financed with the proceeds of any property improvement loan.

A list of eligible measures is attached as an appendix to this notice. Homeowners may use up to 25 percent of the PowerSaver loan proceeds to fund, with the following exceptions, any property improvement that is identified in Title I Letter 470 as an eligible improvement under the Title I program. The following property improvements, although listed in Title I Letter 470 as eligible improvements under the Title I program, are not eligible for funding with PowerSaver loan proceeds:

- Barns
- Boathouses
- Boatslips
- Bookcases (built-in)
- Cabinets (unless the improvement would result in health benefits)
- Choir lofts
- Decks, Gazebos
- Docks
- Door chimes
- Driveways
- Lattice work
- Piers
- Porches
- Safes/vaults

A copy of Title I Letter 470 may be downloaded at: *http://www.hud.gov/offices/adm/hudclips/letters/title1/index.cfm.* If a lender has any doubt as to the eligibility of any item or activity, the lender must request a determination from FHA before making a loan. HUD strongly encourages the use of home energy audits and other tools to enable consumers to determine the most beneficial improvements they should seek to undertake.

5. *Property valuation (24 CFR 201.20).* The combined loan-to-value ratio of any previously existing mortgage and PowerSaver loan cannot exceed 100 percent. As under the Title I Property Improvement program, this requirement does not apply in cases involving PowerSaver loans of less than $7,500 and not secured by the property. Lenders may either use a Fannie Mae and Freddie Mac Form 2055 Exterior-Only Inspection Residential Appraisal Report (most current version) or an Automated Valuation Model (AVM) to establish property value. Any use of AVMs by any lender participating in the pilot program must be approved by FHA on a case-by-case basis. HUD will

discuss this issue further with lenders in the review of their Expression of Interest. HUD notes, however, that potential purchasers of PowerSaver loans from originating lenders may have additional or more restrictive criteria regarding the use of AVMs, which lenders seeking to sell loans to such entities may be required to meet.

6. *Credit requirements for borrowers (24 CFR 201.22).* In addition to the requirements under the Title I program, all borrowers participating in the Retrofit Pilot Program must have a decision credit score of 660 or higher. The decision credit score used by FHA is based on methodologies developed by the FICO Corporation. FICO scores, which range from a low of 300 to a high of 850, are calculated by each of the three National Credit Bureaus and are based upon credit-related information reported by creditors, specific to each applicant. Lower credit scores indicate greater risk of default on any new credit extended to the applicant. The decision credit score is based on the middle of three National Credit Bureau scores or the lower of two scores when all three are not available, for the lowest scoring applicant.

The borrower's total debt-to-income ratio cannot exceed 45 percent, as under the Title I program. HUD recognizes that requiring a minimum credit score for participation in the pilot program will mean that some homeowners cannot participate. However, given that this is a pilot program, HUD has determined to limit the Retrofit Pilot Program to borrowers with these credit scores in order to make an initial assessment of the interaction of credit ratings and repayment in connection with home energy retrofit loans.

7. *Charges to borrower to obtain loan (24 CFR 201.25).* The regulations provide for a HUD-established list of fees and charges that may be included in a property improvement loan. A slightly different list of fees and charges is established for the Retrofit Pilot Program in an appendix to this notice. The list indicates which of those fees and charges may be financed as part of a PowerSaver loan.

8. *Conditions for loan disbursement (24 CFR 201.26).* In addition to current Title I requirements pertaining to disbursement of loan proceeds, the Retrofit Pilot Program funds shall be disbursed to the borrower(s) in two increments: (1) 50 percent of the proceeds shall be disbursed at loan funding/closing; and (2) the remaining 50 percent of the proceeds shall be disbursed after the energy retrofit improvements have been completed as evidenced by an executed Completion Certificate for Property Improvements (form HUD–56002) by the borrower(s), and a lender-required inspection.

9. *Dealer loans (24 CFR 201.27).* Under the Title I program, a dealer loan (defined at 24 CFR 201.2) "means a loan where a dealer, having a direct or indirect financial interest in the transaction between the borrower and the lender, assists the borrower in preparing the credit application or otherwise assists the borrower in obtaining the loan from the lender."

Dealer loans will not be permitted in the Retrofit Pilot Program. The reason for this limitation is that dealer loans have been disproportionately correlated with poor loan performance under Title I and other home improvement loan programs in the past. While HUD recognizes that there are many responsible dealers who can and would provide financing through dealer loans in a responsible manner, it is limiting the Retrofit Pilot Program to "direct loans." "Direct loans" is defined under the Title I program (at 24 CFR 201.2) as "a loan for which a borrower makes application directly to a lender without any assistance from a dealer." HUD believes that home improvement contractors and others whose activity may be described under the definition of "dealer" for the Title I program will play an important role in ensuring the pilot's success by performing the actual work related to the retrofits.

However, home improvement contractors may provide information to homeowners as to how they may obtain a PowerSaver loan, including the identity of lenders who are participating in the program.

10. *Loan servicing (24 CFR 201.41).* Under the Title I program, lenders remain responsible for proper collection efforts, even though actual loan servicing and collection may be performed by an agent of the lender. In addition to these requirements, the servicer of a Retrofit Pilot Program loan, whether the servicer is the original lender or a subsequent servicer, as under FHA's major single family program (commonly referred to as the Title II program), is fully responsible for the required servicing responsibilities. As under the Title II program, "the mortgagee shall remain fully responsible for proper servicing, and the actions of its servicer shall be considered to be the actions of the mortgagee." HUD emphasizes that the servicer shall also be fully responsible for its actions as a servicer. HUD intends to seek recovery from servicers if FHA losses are attributable to servicing errors.

In addition, as noted, lenders that also service loans they originate under the pilot program may utilize HUD incentive payments under the program to reduce servicing costs that deliver bona fide benefits to borrowers.

11. *Insurance claim procedure (24 CFR 201.54).* Under the Title I program, HUD requires that insurance claims be fully documented.

Under the Pilot Program, the holder of the note will be accountable to HUD for origination/underwriting errors, and the servicer will be accountable to HUD for servicing errors, as long as the servicer is a HUD-approved lender. To effectuate this, the insured lender must enter into an agreement with its servicer, under which the servicer agrees to be liable to HUD for such errors, and which identifies HUD as a third-party beneficiary of such agreement.

VI. Evaluating the Success of the Retrofit Pilot Program

As stated in the November 10, 2010, notice, HUD's goals for the Pilot Program are: (1) To facilitate the testing and scaling of a mainstream mortgage product for home energy retrofit loans that includes liquidity options for lenders, resulting in more affordable and widely available loans than are currently available for home energy retrofits; and (2) to establish a robust set of data on home energy efficiency improvements and their impact—on energy savings, borrower income, property value, and other metrics—for the purpose of driving development and expansion of mainstream mortgage products to support home energy retrofits.

HUD's evaluation of PowerSaver will be focused on the extent to which the pilot program achieves those goals. To address the first goal, HUD, through its internal staff and systems, will closely assess lender performance and experience in marketing, originating, servicing and selling PowerSaver loans. As a pilot program in which a small number of lenders will participate, PowerSaver will afford HUD an unusual ability to learn from lenders as they deploy PowerSaver loans. As the PowerSaver program launches and lenders establish marketing plans, loan interest rates, and strategies for holding and/or selling loans, HUD will be in position to assess market impacts as they develop. HUD, working with its lender partners in the pilot program, will get a sense of the factors that contribute to (or impede) consumer demand for home energy efficiency improvement financing. In addition, as noted, lenders will be reporting regularly to HUD on loan performance and the uses of loan proceeds for various improvements. Thus, HUD will have a sense of performance and preference within specific lender programs and markets, as well as potential trends across the portfolio of lenders. HUD will not attempt to rush to conclusions, and will expect possible changes in trends as the pilot program matures and expands.

As a pilot program, one of the principal purposes of the Pilot is to generate data on key questions that can help make the case for additional mainstream mortgage products to support home energy retrofits, including first mortgage options. HUD is therefore committed to a robust evaluation program in connection with the Pilot. (The evaluation will also enable HUD to assess the success of possible modifications to the existing Title I program before initiating, through rulemaking, any changes to the Title I regulations.)

To address the second goal, HUD will focus on three overarching questions: (1) Did homes reduce their energy consumption after retrofits were completed? (2) Did homeowners realize lower energy bills as a result of the retrofits? and (3) Were home values affected as a result of the retrofits? Data from the PowerSaver Pilot Program suggesting answers to these questions will help fill a major void and start to establish a basis for analyzing other financing.

This component of the evaluation will be conducted by a third party with which HUD will contract. That entity will be under contract as the pilot program launches and lenders begin to make loans. HUD anticipates that a critical component of this part of the evaluation will be the third party's ability to access pre- and post-retrofit utility data from at least a sample of PowerSaver homeowners. HUD is aware of effective practices for third parties to access this information, on a confidential basis, and will encourage the evaluation contractor to utilize such practices, including those developed and implemented by DOE.

HUD acknowledges that the issues identified can be challenging impacts to evaluate, for reasons ranging from "rebound effects" to consumer concerns about access to utility billing data. HUD believes that it must attempt to do so, however, and believes that additional, useful information at a meaningful scale can be obtained through the PowerSaver program. HUD believes that continued progress on mainstream mortgage financing options for home energy retrofits requires attention to these issues.

HUD recognizes that an evaluation of PowerSaver could also consider other important questions. HUD will explore, internally and with its contractor, the feasibility of adding to the core evaluation scope, potentially including: (1) Lender costs for originating and servicing; (2) impact of interest rates on consumer participation; (3) relative effectiveness of nonfinancial programmatic elements (consumer education, product marketing, auditing tools, and workforce quality assurance); and (4) the extent to which specific home energy improvements are chosen and the results from specific measures.

The results of the evaluation program will heavily inform HUD's determination of whether to make the PowerSaver pilot program a permanent FHA program, subject to any desired changes and pursuant to any appropriate rulemaking process that HUD may determine is necessary. A successful pilot program, and a sound basis for making PowerSaver a permanent program would be reflected in an evaluation that HUD believes demonstrates that: (1) Lenders demonstrate that there is a market for PowerSaver loans in their communities that they can serve on a viable continuing basis, facilitated to the extent necessary by an ability to sell or securitize PowerSaver loans; (2) the best available data suggests that PowerSaver loans are resulting in more home energy retrofits (and related jobs and economic benefits), lower energy use, and lower energy bills; and (3) FHA systems and staff indicate that FHA can continue and potentially expand the program in a safe and sound manner.

VII. Findings and Certifications

Paperwork Reduction Act

The information collection requirements in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) and assigned OMB Control Number 2502–0596. In accordance with the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

Executive Order 12866, Regulatory Planning and Review

OMB reviewed this notice rule under Executive Order 12866 (entitled "Regulatory Planning and Review"). As was the case with the November 10, 2010, notice, this notice has been determined to be an "economically significant regulatory action," as defined in section 3(f)(1) of the Order. The revised impact analysis for this notice is available at *http://www.hud.gov/offices/adm/hudclips/ia/.* The following provides a brief summary of the finding relating to the aggregate costs, benefits, and transfers of the pilot program contained in the analysis:

Introduction. As discussed more fully in the accompanying impact analysis, HUD envisions that the pilot program will provide insurance for up to 24,000 loans over the 2-year period of the pilot program, with an expected average loan size of $12,500. The program is therefore expected to result in the extension of up to $300 million in FHA-insured energy efficiency property improvement loans over the 2-year period and a resulting energy-saving valued at as much as $630 million (in present discounted value).

Benefits. The aggregate net benefits are obtained by multiplying the individual net benefits by the expected number of loans and adding the expected social benefits of reduced energy consumption. As a base case, HUD assumes a consumer household with annual savings of $1,000, a 0 percent price growth, and a 7 percent discount rate. The present value of a technical retrofit for this base case scenario is $11,400. Assuming a rebound effect of 30 percent yields a comfort benefit of $3,400 and energy savings of $8,000 per participant.[4] As noted, approximately 24,000 loans are expected over 2 years. For the base case scenario, this would equal $41 million in comfort benefits and $96 million in energy savings for each year of the program. The benefits of the FHA program may not equal the sum of the benefits of all retrofits financed through the program, but only reflect the benefits of the retrofits that would not have occurred without the program; however, the existence of significant market imperfections and the lack of affordable financing make it reasonable to assume that a large proportion, if not all of the loans, will generate benefits.

Costs. The cost of receiving the energy-savings is the upfront investment plus the costs of financing the investment. The cost per investment is thus equal to the size of the loan, or $14,880 on average.

Transfers to Consumers. The transfer to consumers is equal to the difference

[4] The "rebound effect" refers to the fact that the reaction of the consumer to the energy-saving technology will not necessarily reduce energy consumption by what is technically possible. By increasing energy efficiency, the retrofit reduces the expense of physical comfort and will thus increase the demand for comfort. In fact, the retrofit may have been driven for a demand for more heating in the winter or cooling in the summer. The size of the rebound effect will depend on the income of the household and the path of energy prices.

between the FHA interest rate and the interest rates on other loans available for the same purpose. As discussed, alternative means of financing are limited and come with higher interest costs. However, if the next best interest rate for the consumer were fairly low at 10 percent, then this loan would represent a transfer of approximately $5,000 per household. Aggregated over 12,000 participants, the aggregate annual consumer transfer through lower interest costs would be $62 million.

The docket file is available for public inspection in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276 Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulations Division at 202–402–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at 800–877–8339.

Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment was prepared in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). Individual mortgage insurance actions taken under the pilot program are categorically excluded under HUD's regulations at 24 CFR 50.19(b)(17) and not subject to the federal laws and authorities cited in 24 CFR 50.4, other than 24 CFR 50.4(b)(1) and (c)(1), and 24 CFR 51.303(a)(3). The FONSI is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the FONSI 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 toll-free Federal Information Relay Service at 800–877–8339.

Dated: March 24, 2011.

Joseph F. Smith,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

Appendix A
Allowable Charges and Fees

Fees & Charges that May be Financed	**Fees and Charges that May be Collected, but May Not be Financed**
An origination fee, not to exceed five percent of the loan amount.[1]	Discount points paid by the borrower or third party to the lender, but only if the lender can demonstrate a clear relationship between the discount points being charged and a compensating decrease in the interest rate on the loan.
Fees for architectural and engineering services. [1]	A fee for the services of a qualified closing agent to act on behalf of the lender in closing a direct loan transaction.
Building permit costs.[1]	Title I loan insurance charges assessed by the lender.
Credit report costs.[1]	Premiums for flood insurance that may be required in connection with a property improvement loan.[1]
Title examination costs.[1]	Premiums for credit life insurance or credit disability insurance.
Fees for determining whether the property is in a special flood hazard area.[1]	Title insurance costs.
Recording fees, recording taxes, filing fees, and documentary stamp Recording fees, recording taxes, filing fees, and documentary stamp taxes.	Payments into a tax and insurance escrow account for the current year.
Fee for inspection of the property by the lender or its agent, not to exceed $125.[1]	Other fees necessary to establish the validity of a lien.
Appraisal fees.[1]	Survey costs.[1]
Energy Audits.[1]	A handling charge to refinance an existing Title I loan, not to exceed one percent of the new loan amount.[1]
Such other items as may be specified by the Department.	A fee for approving an assumptor and preparing the assumption agreement, not to exceed one percent of the unpaid principal balance on the loan.[1]
	A fee for recording a release of the lender's security in the property, if permitted under State law.
	Such other items as may be specified by the Department.

* Typical fees & charges that may be collected at the time of application.

Appendix B
Eligible Improvements
Under Retrofit Pilot Program[5]

Improvement	Standard Home Energy Improvement Standards
Whole House	Whole house air sealing measures, including interior and exterior measures, utilizing sealants, caulks, insulating foams, gaskets, weather-stripping, mastics, and other building materials in accordance with BPI standards or other procedures approved by the Secretary. Reference: **http://www.bpi.org/standards.aspx**
Insulation: Attic	Attic insulation measures that— **(A)** include sealing of air leakage between the attic and the conditioned space, in accordance with BPI standards or the attic portions of the DOE or EPA thermal bypass checklist or other procedures approved by the Secretary; **(B)** add at least R-19 insulation to existing insulation; **(C)** result in at least R-38 insulation in DOE climate zones 1 through 4 and at least R-49 insulation in DOE climate zones 5 through 8, including existing insulation, within the limits of structural capacity, except that a State, with the approval of the Secretary, may designate climate zone sub regions as a function of varying elevation; and (Map Page: **http://www.energystar.gov/index.cfm?c=home_sealing.hm_improvement_insulation_table**) **(D)** cover at least-- (i) 100 percent of an accessible attic; or (ii) 75 percent of the total conditioned footprint of the house. BPI Standards reference: **http://www.bpi.org/standards.aspx**
Insulation: Wall	Wall insulation that— **(A)** is installed in accordance with BPI standards or other procedures approved by the Secretary; **(B)** is to full-stud thickness or adds at least R-10 of continuous insulation; and **(C)** covers at least 75 percent of the total external wall area of the home. BPI Reference: **http://www.bpi.org/standards.aspx**

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5 Section V.F.4(b) of this notice provides that homeowners may use up to 25 percent of the PowerSaver loan proceeds to fund, with certain specified exceptions, property improvements that, although not listed in this appendix, are identified in Title I Letter 470 as an eligible improvement under the Title I program. A copy of Title I Letter 470 may be downloaded at: http://www.hud.gov/offices/adm/hudclips/letters/title1/index.cfm If a lender has any doubt as to the eligibility of any item or activity, the lender must request a determination from FHA before making a loan. HUD strongly encourages the use of home energy audits and other tools to enable consumers to determine the most beneficial improvements they should seek to undertake.

Improvement	Standard Home Energy Improvement Standards
Insulation: Crawl Space	Crawl space insulation or basement wall and rim joist insulation that is installed in accordance with BPI standards or other procedures approved by the Secretary and— **(A)** covers at least 500 square feet of crawl space or basement wall and adds at least-- (i) R-19 of cavity insulation or R-15 of continuous insulation to existing crawl space insulation; or (ii) R-13 of cavity insulation or R-10 of continuous insulation to basement walls; and **(B)** fully covers the rim joist with at least R-10 of new continuous or R-13 of cavity insulation. BPI Reference: **http://www.bpi.org/standards.aspx**
Duct Sealing	Duct sealing or replacement and sealing that— **(A)** is installed in accordance with BPI standards or other procedures approved by the Secretary; and **(B)** in the case of duct replacement and sealing, replaces and seals at least 50 percent of a distribution system of the home. BPI Reference: **http://www.bpi.org/standards.aspx** Reference: **http://www1.eere.energy.gov/buildings/windowsvolumepurchase/**
Skylight Replacement	Skylight replacement that meets most recent Energy Star specifications.
Door Replacement	Door replacement that meets most recent Energy Star specifications.
Storm Doors	Storm doors.[This change made at request from OMB]
Window Replacement	Replacement windows that meet the most recent Energy Star specifications.
Storm Windows	Storm windows that meet the requirements for low-e storm windows under the Department of Energy Windows Volume Purchase Program.
Heating System Gas/Propane/Oil Boiler / Furnace	Heating system replacement that meets most recent Energy Star specifications.
Air Conditioner	Central air conditioner or air-source heat pump replacement with a new unit that meets most recent Energy Star specifications.
Water Heater (gas, propane, electric, tank less)	Replacement of a natural gas, propane, or electric water heater that meets most recent Energy Star specifications.
Roofs Metal & Asphalt	Metal or asphalt roofs that meet most recent Energy Star specifications.
Improvement	**Renewable Energy Home Improvement Standards**
Ground Source Heat Pump Systems	Ground source heat pump systems must be installed in accordance with ANSI/ACCA Standard 5 QJ-201.

Improvement	Standard Home Energy Improvement Standards
Water Heater (solar)	Solar water heating property must be Energy Star Qualified, or certified by the Solar Rating and Certification Corporation or by comparable entity endorsed by the state in which the system is installed.
Fuel Cells and Micro turbine Systems	Efficiency of at least 30% and must have a capacity of at least 0.5 kW.
Solar Panels (Photovoltaic Systems)	Photovoltaic systems must provide electricity for the residence, and must meet applicable fire and electrical code requirement.
Wind Turbine Residential	A wind turbine must (i) have a nameplate capacity of not more than 100 kilowatts; (ii) have performance and safety certification to: • The International Electrotechnical Commission (IEC) standards from an accredited product certification body, or • Certification to the American Wind Energy Association (AWEA) standards from the Small Wind Certification Council (SWCC), or a Nationally Recognized Testing Laboratory (NRTL); and (iii) be installed by an installer with North American Board of Certified Energy Practitioners Small Wind Installer Certification or small wind turbine installation training from an accredited training organization.

[FR Doc. 2011–7551 Filed 3–30–11; 8:45 am]
BILLING CODE 4210–67–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5420–N–04]

Notice of Regulatory Waiver Requests Granted for the Fourth Quarter of Calendar Year 2010

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on October 1, 2010, and ending on December 31, 2010.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 7th Street, SW., Room 10282, Washington, DC 20410–0500, telephone 202–708–1793 (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 Information Relay Service at 800–877–8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the fourth quarter of calendar year 2010.

SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;
2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;
3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from