Mae generally agreed. The Los Angeles Housing Department commented:

If a second mortgage loan is made to a low income or minority borrower who otherwise would have had to resort to the loan companies which charge exorbitant interest rates and points ("hard money lenders") the loan should carry full GSE credit. Otherwise, the loan is being made to borrowers who have already shown themselves to be a good risk, and should not generate full credit.

To simplify counting and monitoring for goals purposes and encourage the GSEs to purchase second mortgages, including low- and moderate-income rehabilitation loans, the final rule, by revising the definition of "mortgage," provides that second mortgages will receive full credit toward achievement of the housing goals. This change will be monitored closely by HUD, to assure, for example, that a GSE does not purchase an excessive number of second mortgages with low unpaid principal balances solely to enhance goal performance.

Income Level Definitions—Tenants (Family Size Not Known), Section 81.18

Freddie Mac commented that § 81.18 (determining affordability for rental units where family size is not known) should apply to actual tenants because Freddie Mac normally has data on unit size, instead of family size, for actual tenants.

HUD agrees and has inserted "actual or" before the word "prospective" where it appears in § 81.18. Unit size serves as an adequate proxy for family size in instances where the data on family size is not readily available, and requiring family size information could, in some cases, impose an unnecessary cost on the GSEs in exchange for very little information.

Rent Level Definitions for Tenants (Income Not Known), Section 81.19

Freddie Mac objected to §81.19(d). which would have provided that, for purposes of determining whether a rental unit is affordable, units without data on the number of bedrooms must be counted as efficiency units in making affordability calculations. Freddie Mac commented that this assumption would have the effect of understating the GSEs performance against the goals, and if information is available on the number of bedrooms of a high percentage of units in a property, the GSE should be allowed to apply the known percentages of efficiencies, one-bedrooms, etc., to the unknown units.

The formulation in the proposed rule has been maintained has been maintained in the final rule. It provides an incentive for the GSEs to secure necessary information regarding bedroom size. Freddie Mac's suggestion would increase HUD's burden in monitoring performance without improving accuracy of the data, and this is contrary to the intent in estimating affordability. Therefore, the assumption respecting efficiency units is not changed.

Additional Goals/Subgoals

Several commenters suggested that the Secretary should, in some manner, provide for additional goals and subgoals. One commenter advocated additions to the regulation to ensure that members of minority communities have access to housing finance from the GSEs commensurate with the minority groups' locally determined percentage shares of single-family mortgage purchases. Similarly, several other commenters suggested subgoals for purchases of mortgages on properties occupied by minority households. Another commenter recommended that regional goals be set, taking into account the variation in housing markets from city to city, as well as urban-rural variations. In a similar vein, another commenter suggested that the Secretary "require the GSEs to increase their . . . purchases in areas of acute need.

Two commenters recommended that the Secretary establish a goal under which the GSEs would receive full credit toward achievement of the goals for the disposition of real property to nonprofits.

HŪD is refraining from establishing a range of subgoals in this final rule. HUD is concerned about micromanaging the GSEs' efforts to achieve the housing goals. In addition, the objectives sought by the commenters can be served through the three existing goals.

Notice and Determination of Failure To Meet Goals, Section 81.21

Although Freddie Mac supported the proposed rule's "close adherence" to the language of FHEFSSA in §§ 81.21 and 81.22 of the proposed rule on monitoring and enforcement, Freddie Mac commented on several points. Under the proposed §81.21(a), the Secretary, in determining whether a GSE has failed or there is a substantial probability that a GSE will fail to meet a housing goal, will consider the GSEs' reports and "other data available to the Secretary." Freddie Mac noted that it did not understand what "other data" referred to and Freddie Mac commented that the phrase should be clarified or removed.

In response to this comment and to mirror FHEFSSA, § 81.21 no longer refers to the information that the Secretary will consider in making the determination.

Freddie Mac commented that §81.21(b)(1) should be revised to track section 1336(b)(2) of FHEFSSA so that a GSE has 30 days from the date of notice to respond to a preliminary determination from the Secretary. The final regulation has been revised to reference the requirement of section 1336(b).

Housing Plans, Section 81.22

In determining feasibility of a housing goal under § 81.22(a), Fannie Mae commented that the final rule should note specifically that the economic environment and fiscal and monetary policies outside Fannie Mae's control will sometimes determine a particular goal's feasibility.

Section 1336(b)(3)(A)(ii) of FHEFSSA provides that, in determining the feasibility of a housing goal, the Secretary must consider market and economic conditions and the GSE's financial condition. The regulation includes this language and the specific reference suggested by Fannie Mae is not needed.

Under § 81.22(b)(4), the proposed rule would have allowed the Secretary to require a GSE's housing plan to address additional matters as required by the Secretary. Freddie Mac objected to the "any additional matters" language and insisted that only the statutory description should be used.

The final rule does not make this change because the Secretary may find it necessary and proper to require the GSE to include specific additional matters relevant to achieving the goal in a housing plan.

Citing section 1336(c)(3) of FHEFSSA, which provides that the Secretary shall, by regulation, establish a deadline for submission of housing plans and that such deadline may not be longer than 45 days after notice to the GSE, Freddie Mac asked for 45 days for submission of a housing plan, rather than the 30-day period provided for in §81.22(c).

FHEFSSA allows the Secretary to establish a time period of less than 45 days and the Secretary has determined that 30 days is necessary to avoid further delay in achieving the housing goal.

Under § 81.22(e), where the first two housing plans submitted by a GSE are disapproved by the Secretary, Freddie Mac commented that the GSEs be granted 30 days to submit a third housing plan, rather that the 15-day period provided for in § 81.22(e).

In the event that a GSE's housing plans are so deficient that the Secretary disapproves the first two submitted by