Secretary has the minimum information needed to carry out these monitoring, compliance, and other regulatory responsibilities.

Requiring quarterly reporting is well within the Secretary's authority under FHEFSSA. The Secretary, under section 1321, has "general regulatory power over each enterprise and shall make such rules and regulations as shall be necessary and proper to ensure that this part and the purposes of the [Charter Acts] are accomplished." Section 1327 mandates that the Secretary require reports on the GSEs' activities "as appropriate," and FHEFSSA's amendments to the Charter Acts specifically require the GSEs to collect, maintain, and provide to the Secretary detailed data on mortgages purchased financing both single-family and multifamily properties "in a form determined by the Secretary." 64

No convincing indication ⁶⁵ exists that Congress intended the HMDA schedules or procedures to serve as a controlling model. ⁶⁶ FHEFSSA did not seek to lessen reporting. Indeed, FHEFSSA required detailed reporting of mortgage data and extensive annual reporting on GSE housing activities to both Congress and the Secretary. In enacting FHEFSSA, Congress was particularly concerned about the lack of information on the GSEs' mortgage purchases. The legislative history describes FHEFSSA's reporting requirements and states:

* * * an information vacuum has severely impeded Congressional efforts to measure Fannie Mae's compliance with regulatory housing goals that have been in force since 1978. The committee believes that enactment of this bill will fill this vacuum on an expeditious basis by mandating the creation of modern state of the art data systems by both enterprises.⁶⁷

Freddie Mac also expressed concern about the disclosure of mortgage data on less than an annual basis; *e.g.*, if Freddie Mac provided first-quarter loan-level data, it did not want that data released until after the end of the year, and Freddie Mac wanted the data included with all other data from that year so that the timing of its mortgage purchases could not be determined.

It was not intended that quarterly or semi-annual loan-level data be placed in

Freddie Mac stated that developing and modifying its systems to comply with these reporting requirements would take some time and, because of this, Freddie Mac requested an exemption from reporting for a reasonable time following the issuance of final regulations. In response, notwithstanding the effective date for other provisions of this rule, the second-quarter mortgage report for 1996 is the first such report required.

Annual Housing Activities Report, Section 81.63

FHEFSSA requires the GSEs to submit an Annual Housing Activities Report (AHAR) to Congress and the Secretary. Under FHEFSSA, the AHAR must, among other things, describe actions that the GSE has undertaken during the preceding year or is planning to undertake to: promote and expand its attainment of its statutory purposes; standardize credit terms and underwriting guidelines for multifamily housing and securitize multifamily housing mortgages; and promote and expand opportunities for first-time home buyers. FHEFSSA also requires that, for the AHAR, the GSEs assess underwriting standards and other business practices and procedures that affect the purchase of mortgages for lowand moderate-income families or that may yield disparate results. The AHAR also must include annual compilations of year-to-date mortgage data (but not loan-level data) and any other information that the Secretary considers necessary for the report and requests in writing.

Fannie Mae objected to the requirement that the AHAR provide information on the extent to which the mortgages purchased "have been used in conjunction with public subsidy programs." Fannie Mae argued that it

was only required to report on subsidy programs "under Federal law" and that the proposed "public subsidy" requirement was too broad, administratively burdensome, time-consuming, and unreliable, because lenders frequently do not report the presence of State/local subsidy programs.

While the Charter Act amendments do specifically require the GSEs to provide information on the extent to which mortgage purchases have been used in conjunction with public subsidy programs under Federal law, the Secretary may require information concerning the presence of non-Federal subsidies under FHEFSSA's authorization to the Secretary to "request other information |for the AHAR] that the Secretary considers appropriate." Nevertheless, HUD has decided to remove this requirement because information on public subsidies is frequently unavailable and often inaccurate, and generally cannot be obtained in sufficient detail to be useful.

The proposed rule would have required each GSE to provide an AHAR within 60 days after the end of each calendar year. Fannie Mae asked that this period be extended to 90 days. Since FHEFSSA requires that the Secretary report to Congress by June 30 of each year on the activities of each GSE, the GSEs' AHARs are needed substantially prior to that date in order to allow sufficient time for HUD to develop the Secretary's report. In an attempt to address the needs of the GSEs and HUD, the final rule provides that AHARs will be due 75 days after the end of the calendar year. The first AHAR required under this rule will be the report covering calendar year 1996 (due in 1997).

Periodic Reports, Section 81.64

Fannie Mae objected to the requirement in §81.64 of the proposed rule that all releases of information disclosed to entities outside the GSE be submitted to HUD. Fannie Mae argued that the requirement: was excessive, expensive, and of no practical use to HUD; violated the principles of Executive Order 12866; and could compromise the GSE's competitive position and the need for confidentiality. Fannie Mae suggested that the requirement be removed from the regulation or modified to specify that the GSEs need provide to HUD only "significant announcements" and could provide those simultaneously with public announcement.

While the burden of compliance with § 81.64 has been exaggerated, no necessity exists for transmittal of

⁶⁴ Sections 307(e)(1)(E) of the Freddie Mac Act and 309(m)(1) of the Fannie Mae Charter Act.

⁶⁵The House Bill, H.R. 2900, 102d Cong., 1st Sess., did require "annual" reporting in the HMDA manner. However, sections 121(l) and 122(k) of that bill were changed substantially before the law was enacted.

 $^{^{66}}$ The Senate Report expressed Congressional intent that the Secretary should be more aggressive in monitoring the GSEs' activities. See S. Rep. at 33. 67 S. Rep. at 38–39.

the public-use database. Loan-level data submitted with the second-quarter report are required only so that the Secretary can assess the GSE's current condition under the goals, to facilitate the Secretary's monitoring functions; the final rule so indicates. Because other-than-year-end loan-level data are by nature preliminary, submitted as a condition report, subject to revision, and may cause substantial harm if prematurely released, the inclusion of such data in the public-use database would be inappropriate. Of the mortgage data submitted under section 309(m) of the Fannie Mae Charter Act and section 307(e) of the Freddie Mac Act, the only loan-level mortgage data that shall be placed in the public-use database is year-end data, consistent with subpart F of this rule.