largely included in the discussion of subparts B and C.

Only 10 commenters addressed the access to information issue. Of these, six (including the GSEs) were substantially opposed to the rule's provisions, while four supported the rule or urged stronger provisions in favor of broader public disclosure of GSE information.

In all subject areas, the GSEs' expressions of opposition to important features of the rule were backed by a majority of the national or regional industry associations submitting comments, as well as by commenters representing banks and other lenders. On the other hand, several associations expressed notable support for some of the same features.

A higher proportion of the commenting nonprofit organizations supported important aspects of the rule as proposed, although many of these commenters also opposed individual features of the proposal and offered suggestions for modifications or compromises that would accomplish similar aims. A number of nonprofit organizations also recommended further strengthening of the rule, especially as it relates to housing goals.

Comments from Governors and Mayors tended to concentrate on the goals. In general, these comments opposed the definitions in the proposed rule of "central city," "rural area," and other key terms that determine the transactions that count toward achievement of the housing goals. Twelve of the 22 State and local political leaders who commented expressed opposition to the program approval portions of the rule. The 10 comments from State and local governmental agencies focused largely on housing goals issues, but were more diverse in their views, with 5 agencies generally supporting the rule, 4 opposing significant portions of it, and 1 expressing a mixture of favorable and unfavorable comments.

Members of Congress submitting comments mainly addressed housing goals issues, with 6 of the 10 criticizing the rule. Six Members also opposed aspects of the new program approval subpart. Three Members voiced support for the proposed rule's approach to housing goals, and one expressed support for the rule's fair housing provisions.

A discussion of general and specific comments on the rule follows. HUD has read and considered all of the comments received from the public in developing this final rule. Although not all of the comments are addressed explicitly in this preamble, often because HUD's response is implicit in the general

discussion of the rule or other comments or because the comments were minor, HUD acknowledges the value of all of the comments submitted in response to the proposed rule.

Other Public Input

In addition to the comments received, **HUD** sought information from the GSEs and other market participants to verify or revise assumptions and data HUD used in developing the rule. During this rulemaking, HŪD held numerous meetings with the GSEs, lenders, developers, nonprofit groups, publicinterest representatives, and other Federal agencies to discuss issues related to the rule, including the methodology used to establish market shares, current conditions in rural lending, and current conditions in the multifamily market. Additional information on these meetings is contained in the public docket file of this rule in Room 10276 at HUD Headquarters. HUD also conducted a series of detailed analyses of various technical issues raised in the comment letters. To assist in analyzing these issues, HUD contracted with researchers and academicians in universities and the private sector to carry out independent evaluations of HUD's methodology. HUD also consulted broadly with researchers and economists at other Government agencies, the GSEs, and housing trade groups to critique and refine the underlying analytical work used in establishing the housing goals.

Subpart A—General

Overview

The GSEs commented that various parts of the proposed rule were not legally sustainable because the Secretary's actions were, for example, "unreasonable," "arbitrary, "capricious," "not supported by a cogent rationale," "in direct conflict with the plain meaning of the Act," or 'an improper exercise of the Secretary's discretion." HUD has carefully reviewed these concerns and applicable case law,13 and has concluded that its exercise of regulatory authority in promulgating this final rule is, in all respects, well within the discretion accorded to HUD by Congress under FHEFSSA and is well-supported by ample evidence and considered reasoning.

Section 81.2—Definitions

Many of the definitions remain the same as in the proposed rule or have

been modified for purposes of clarity only. This final rule, however, does change some definitions substantially in response to comments. This section of the preamble mainly discusses changes in definitions relating to housing goals. The preamble text concerning subpart D discusses the definition of "new program", and the text concerning subpart F discusses the definitions of "proprietary information" and "public data".

Contract Rent. Freddie Mac asked that the definition of "contract rent" be revised to allow the GSEs to decrease contract rent by the amount of any "rent concessions." Supporting, generally, the rule's contract rent definition, Freddie Mac commented that: underwriting determinations are based on post-concession rents; Freddie Mac adheres to that general practice; and allowing rent concessions to be taken into account would materially increase affordability of some units.

Under FHEFSSA, the affordability of housing units and their eligibility for counting towards a goal is based on their rents. Rent concessions are relatively short-term in nature. Their consideration in calculating rents would result in unrealistically low levels of rent, considering that after the rent concession period ends, the rents are increased. Accordingly, it is not appropriate to consider rent concessions in defining or determining rent.

Dwelling unit. Freddie Mac objected to the inclusion of a definition for "dwelling unit" in the rule. Freddie Mac asserted that under section 302(h) of the Freddie Mac Act, which defines "residential mortgage," Freddie Mac is authorized to define "dwelling unit."

Although Freddie Mac is authorized to define the term "dwelling unit" under the Freddie Mac Act, it is appropriate that this final rule define the term under FHEFSSA. The Secretary is charged with measuring the extent of compliance with the housing goals under section 1336 of FHEFSSA. Because FHEFSSA specifically authorizes the Secretary to consider units in formulating the goal, a definition of the term "unit" or "dwelling unit" is integral to counting GSEs' purchases toward achievement of the goals.

The GSEs also commented that, if "dwelling unit" is defined under the rule, the definition of "dwelling unit" should include the following types of housing: (1) A single-family dwelling with a home office; (2) dwelling units in an apartment complex with retail space or a day care center; and (3) single-room-occupancy buildings and group homes that may lack separate kitchens

¹³ See, e.g., Chevron, U.S.A., Inc. v. Natural Resources Defense Council, 467 U.S. 837 (1984).