DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 243, 760 and 889 [Docket No. R-95-1767; FR-3336-I-01] RIN 2502-AF86

Supportive Housing for the Elderly; Management

AGENCY: Office of the Secretary, HUD. **ACTION:** Interim rule.

SUMMARY: This interim rule establishes the requirements related to management and operation of the Supportive Housing for the Elderly Program. The purpose of the Supportive Housing for the Elderly Program is to enable elderly persons to live with dignity and independence by expanding the supply of supportive housing that is designed to accommodate the special needs of elderly persons and provides a range of services that are tailored to the needs of elderly persons occupying such housing. An interim rule similar to this interim rule is also being published in today's Federal Register for the Supportive Housing for Persons with Disabilities Program. This interim rule also adds both Supportive Housing programs to the list of projects covered by the pet ownership requirements. This interim rule also applies the wage and claim consent form requirements to both programs.

DATES: Effective Date: April 3, 1995. Sunset Provisions: Sections 243.3(c)(1), 760.3(b)(10) and (11), and 889.600 through 889.655, shall expire and shall not be in effect after October 2, 1996, unless changes in this interim rule are published as a final rule, or the Department publishes a notice in the Federal Register to extend the effective date.

Comments due date: May 1, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this interim rule to the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours (weekdays 7:30 a.m. to 5:30 p.m.) at the above address.

FOR FURTHER INFORMATION CONTACT: Margaret Milner, Acting Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6130, Washington, DC 20410, telephone (202) 708–4542; (TDD) (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Burden

The information collection requirements contained in this interim rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), and assigned OMB control number 2502–0470.

II. Justification for Interim Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 provides for exceptions from that general rule when the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). The Department finds that good cause exists to publish this interim rule for effect without first soliciting public comment, in that prior public procedure is unnecessary. These management rules vary only slightly from previous management requirements for the section 202 (of the Housing Act of 1959) direct loan program. This interim rule furthers the legislative mandate of section 202 of the Housing Act of 1959, as amended, and it involves only minor interpretations of that statute. The section 202 capital advance program currently is operating under a series of interim rules. The Department intends to publish a final rule that will incorporate public comments for all aspects of the section 202 capital advance program.

The Department also finds that prior public procedure would be impracticable. The Department has awarded capital advances since 1991, and many of these projects are approaching the management phase or have become operational. Management requirements are needed immediately to assure transition from the development phase to the management phase.

III. Sunset of Interim Rule

In accordance with the Department's policy on interim rules, the amendments made by this interim rule shall expire 18 months after the effective date of this interim rule, unless extended by notice published in the **Federal Register**, or adopted by a final

rule published on or before the 18month anniversary date of the effective date of this interim rule.

IV. Background

The Supportive Housing for the Elderly Program is authorized by section 202 of the Housing Act of 1959, as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act (the NAHA Act) and the **Housing and Community Development** Act of 1992 (1992 Act). Under the program, which is implemented in 24 CFR part 889, assistance is provided to private nonprofit organizations and nonprofit consumer cooperatives to expand the supply of supportive housing for the elderly. Such assistance is provided as (1) capital advances and (2) project rental assistance contracts. Capital advances may be used to finance the construction or rehabilitation of a structure, or the acquisition of a structure from the Resolution Trust Corporation (RTC), to be used as supportive housing for the elderly. This assistance may also cover the cost of real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for the elderly

On June 12, 1991, the Department published an interim rule (56 FR 27104) implementing the amendments made by section 801 of the NAHA to establish the Supportive Housing for the Elderly Program. That interim rule, which enabled the program to be funded for FY-1991, described application procedures and program requirements, selection of applications and duration of fund reservation requirements. A second interim rule was published on August 12, 1992 (57 FR 36338) to provide the development-related requirements (closing of capital advances and requirements related to project rental assistance contracts) of the program. The program was the subject of further amendments of the 1992 Act, which were implemented by a third interim rule published on May 5, 1993 (58 FR 26836). All three interim rules are codified at 24 CFR part 889.

Selection preference rules (§§ 889.611–889.615) for this program were published on July 18, 1994 at 59 FR 36616. Today's interim rule (subpart F, part 889) completes the establishment of the program by providing the requirements for management and operation of projects funded under the program. After the period of public comment is completed on this interim rule, the Department will develop a final rule based on all previous rules.