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Housing and Urban Development, 451  
7th Street SW., Room 9116,  
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### 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 does provide for exceptions from that general rule where 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 rule for effect at the same time as it solicits public comment, because waiting for the completion of public comments prior to making the rule effective would be contrary to the public interest. The public has already expressed interest in going forward with mixed-finance proposals for supportive housing for the elderly or persons with disabilities, and there are already proposals pending that are ready to proceed. No purpose would be served by making those who are prepared to proceed wait for the receipt of public comments, the consideration of those comments by agency decision makers, and the subsequent publication of a final rule. In addition, the rule would provide a significant public benefit, in the form of increased housing opportunities for the elderly and disabled, while, through the leveraging of private resources and state and local tax credits, reducing the amount of Federal expenditure. Therefore, it is in the public interest to issue this rule for effect so that these proposals can go forward expeditiously and the public can have the benefit of the increased development of supportive housing that the rule intends to foster. The Department invites public comment on the rule to assure that consideration is given to the full range of views that may be presented in the development of a final rule that will supersede this interim rule.

### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule does not

impose any Federal mandate on any state, local, or tribal government or the private sector within the meaning of the UMRA.

### Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made 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). The Finding of No Significant Impact is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Office of Regulations, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-0500.

### Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule and in so doing certifies that this rule would not have a significant economic impact on a substantial number of small entities. The program will provide capital advances to private Nonprofit Organizations and nonprofit consumer cooperatives to expand the supply of supportive housing for the elderly and to Nonprofit Organizations to expand the supply of supportive housing for persons with disabilities. Private for-profit entities may also participate in the mixed-finance aspect of producing such housing. Although small and private entities may participate in the program, the rule does not impose any legal requirement or mandate upon them and accordingly, will not have a significant impact on them.

Although HUD has determined that this rule would not have a significant economic impact on a substantial number of small entities, HUD welcomes comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

### Federalism Impact

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct

compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

### Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled "Regulatory Planning and Review"). OMB determined that this rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the office of the Rules Docket Clerk, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-0500.

### List of Subjects in 24 CFR Part 891

Aged, Civil rights, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Mental health programs, Rent subsidies, Reporting and recordkeeping requirements.

(The catalogue of Federal domestic assistance numbers for the programs in this rule are: 14.157 and 14.181.)

■ For the reasons discussed in this preamble, HUD amends 24 CFR part 891 as follows:

### PART 891—SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES

■ 1. The authority citation for part 891 continues to read as follows:

**Authority:** 12 U.S.C. 1701q; 42 U.S.C. 1437f, 3535(d), and 8013.

### Subpart A—General Program Requirements

■ 2. Amend 24 CFR 891.105 by revising the definition of "Replacement reserve account" to read as follows:

#### § 891.105 Definitions.

\* \* \* \* \*

*Replacement reserve account* means a project account into which funds are deposited, which may be used only with the approval of the Secretary for repairs, replacement, capital improvements to the project, and retrofitting to reduce the number of units as provided by 24 CFR 891.405(d).

■ 3. Amend 24 CFR 891.120 by adding a new paragraph 891.120(e) to read as follows: