Development Technical Amendments of 1984. These changes (1) impose limitations on prepayments or the assignment or transfer of the assets of section 202 projects by Borrowers; (2) permit the Sponsor or Borrower to select the contractor under certain conditions; and (3) prohibit HUD from imposing different standards with respect to change orders, increases in the loan amount to cover change orders, and related matters, because of the method of contractor selection used by the Sponsor or Borrower.

The rule also makes section 202 applications subject to Executive Order 12372, "Intergovernmental Review of Federal Programs," and amends various sections of Part 885 to clarify certain matters (such as conflicts of interest, requirements for current IRS tax exemption rulings and limitations relating to site acquisitions) applicable to Sponsors and Borrowers.

This interim rule which became effective on May 12, 1986 applies to all applications filed under this Notice, except as modified herein.

(3) Religious bodies may serve as project Sponsors, but must establish a Borrower corporation as a separate legal entity to be the owner, prior to the submission of a Conditional Commitment Application. When the Borrower corporation is created, no reference to religion or religious purposes may be included in the Articles of Incorporation or By-Laws of that corporation. The mere recital in a Borrower's Articles of Incorporation that it is organized exclusively for religious, charitable, scientific, literary or educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code will not by itself make a Borrower ineligible. However, the dissolution clause must provide that, upon dissolution or winding up of the corporation, its assets remaining after payment of all debts and liabilities, shall be distributed to a nonprofit fund, foundation or corporation *other than* one created for a religious purpose, which has established its tax exempt status under section 501(c)(3) of the Internal Revenue Code.

(4) Borrower corporations will not be permitted to engage in any other business or activity, including the operation of any other rental project, or to incur any liability or obligation not in connection with the proposed project. The intent of this requirement is to give HUD sole claim to the assets of the Borrower corporation in case of default under the Regulatory Agreement.

(5) Sponsors, including churches, must have a current tax exemption ruling from the IRS.

(6) Applications will be accepted only from eligible Sponsors, which must be eligible entities as defined in 24 CFR 885.5.

(7) Because of the nonprofit nature of the section 202 program, no officer, or director of the Sponsor or Borrower or trustee, member, stockholder or authorized representative of the Borrower is permitted to have any financial interest in any contract in connection with the rendition of services, the provision of goods or supplies, project management, procurement of furnishings and equipment, construction of the project, procurement of the site or other matters whatsoever, except that this prohibition does not apply to any management contracts (or management fees associated therewith) entered into by the Borrower with the Sponsor or its nonprofit affiliate.

(8) Where the proposed project site is to be optioned or acquried from a general contractor or its affiliate, the Borrower will be prohibited from selecting that contractor to construct the project for which an Application for funding is being made. Further, the proposed contractor may not be the attorney, architect, housing consultant or management agent. This prohibition extends to any firm or subsidiary having an identity of interest with the contractor.

(9) Projects designed exclusively for the chronically mentally ill are eligible under the same conditions and criteria as other projects designed solely for the nonelderly handicapped, except that (a) only group homes for up to 15 persons and independent living complexes to serve up to 20 persons may be proposed for the chronically mentally ill and (b) Sponsors proposing housing for the chronically mentally ill will be required to include in their fund reservation request a Service Program Description, describing how their proposed projects will be linked to supportive services needed to maintain chronically mentally ill persons in the community. Evidence of commitments from funding sources for services must be provided, with assurances that the funds will be secured by the time the project is ready for occupancy and will continue to be available for a reasonable time thereafter. If at any time these supportive service funds are not available, the project will have to be converted to occupancy by elderly or handicapped families capable of living independently without the supportive services.

To assist in evaluating an application's capabilities with regard to supportive services for the residents of group homes or independent living complexes, HUD will invite a representative from the State Mental Health Authority (SMHA) to evaluate and make recommendations about the Service Program Description. To this end, prospective Sponsors may be required to submit a copy of their Applications to the SMHA. HUD Field Officers will advise prospective Sponsors of further details in this regard. Since SMHA's review and evaluation is optional, HUD will conduct its own independent review for those States that do not wish to participate in the evaluation.

(10) HUD unit limits for housing for the nonelderly handicapped (other than the chronically mentally ill) permit group homes to serve up to 15 persons on one site or in the same area, and independent living complexes to include up to 40 units on one site or in the same area. HUD limits independent living complexes comprised of three-or-more-bedroom units to families. These complexes may not be developed to serve large numbers of single, unrelated persons. In an independent living complex, no more than 40 households may be served on any one site. For purposes of this requirement, a household is a family or an individual. Two unrelated individuals sharing a two-bedroom unit will be counted as two households in calculating the 40-household limit.

(11) Sponsors proposing group homes for the nonelderly handicapped are reminded that if a unit is to be occupied by one person, its size will be limited by the 0-bedroom square footage of up to 449 square feet, using the 0-bedroom fair market rent and 0-bedroom unit cost limits. If the unit will be occupied by two persons, the size may be increased to the one-bedroom square footage of from 450 to 540 square feet, using the one-bedroom fair market rent and cost limits.

(12) No single Sponsor, including affiliated entities, may sponsor Application(s) in any HUD Region for more than 300 units.

(13) On September 25, 1985, a Final Rule effective October 30, 1985, was published in the Federal Register (50 FR 38797) to allow section 202 loans for the acquisition of existing housing and related facilities, with or without moderate rehabilitation (hereinafter referred to as "acquisition") for group homes for the nonelderly handicapped.

Proposals involving housing units already owned and operated by the Sponsor as group homes for the handicapped at the time Applications are submitted (ofter referred to as