

CHAPTER 1. PURPOSE AND APPLICABILITY

1-1.Purpose. The purpose of this Guidebook is to advise public housing agencies, including Indian housing authorities, resident corporation leaders, and Department of Housing and Urban Development (HUD) staff regarding Section 214 of the Housing and Community Development Act of 1980 (HCDAAct of 1980), as amended. This Guidebook contains the requirements and procedures required for the implementation of Section 214. Section 214 prohibits the Secretary of HUD from making financial assistance available to persons other than United States citizens, nationals, or certain categories of eligible noncitizens in HUD's assisted housing programs. The requirements of Section 214 were implemented by a final rule published in the Federal Register (see paragraph 1-2, Authority).

1-2.Authority. Section 214 of the HCDAAct of 1980 was implemented by the final rule, Restrictions on Assistance to Noncitizens, published in the Federal Register on Monday, March 20, 1995, at 60 FR 14816 et seq. A copy of the final or "Noncitizens Rule" is reproduced in Appendix A.

1-3.Background. Section 214 of the HCDAAct of 1980 prohibits the Secretary of HUD from making financial assistance available to persons other than United States citizens, nationals, or certain categories of eligible noncitizens either applying to or residing in specified covered programs.

1-4.Effective Date. The Noncitizens Rule is effective June 19, 1995.

1-5.Applicability. The HCDAAct of 1980 and the Noncitizens Rule apply to those assisted housing programs that make available financial assistance pursuant to the United States Housing Act of 1937 (USHAct of 1937)(42 U.S.C. 1457-1440), Section 235 or Section 236 of the National Housing Act (12 U.S.C. 1715z-1) and Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1801s).

However, this Guidebook is applicable only to those covered programs which operate directly under the Office of the Assistant Secretary for Public and Indian Housing (PIH). Specifically, this Guidebook is applicable only. to those programs providing financial assistance primarily under:

a.Section 8 of the USHAct of 1937, and covering the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation programs operated pursuant to 24 CFR Part 812;

b.Title II of the USHAct of 1937, as added by the Indian Housing Act of 1988 and covering the Indian housing programs, including homeownership, operated pursuant to 24 CFR Part 950 (formerly Part 905);

c.Title I of the USHAct of 1937, and covering the public housing programs operated pursuant 24 CFR Part 913.

It should be noted that Section 214 also applies to other HUD programs which provide housing assistance. However, the verification procedures discussed in this Guidebook can not be safely applied to any HUD housing assistance programs other than those specified in paragraph 1-5.

1-6. Organization Of Guidebook. The Guidebook is broken down into a number of major areas:

a. Chapter 1 provides background information on the purpose and applicability of Section 214. It covers compliance with Federal nondiscrimination requirements.

b. Chapter 2 covers the definitions used in the Guidebook.

c. Chapter 3 covers the applicability of Section 214 to persons.

d. Chapter 4 discusses the documentation that must be obtained as evidence of citizenship or eligible immigration status, declarations of status, and retention of documents.

e. Chapter 5 deals with Section 214 notification requirements regarding verification of the eligible immigration status of applicants and residents.

f. Chapter 6 is concerned with the collection of evidence to document eligible immigration status.

g. Chapter 7 describes the primary and secondary verification processes. It includes instructions for accessing the Systematic Alien Verification for Entitlements (SAVE) system and, if necessary, for obtaining secondary verification.

h. Chapter 8 describes the three situations involving limitations on the provision of financial assistance: delay, denial or termination of assistance.

i. Chapter 9 explains the appeal processes that are available in the event of notification by the responsible entity that INS secondary verification failed to confirm eligible immigration status. After notification of the unfavorable INS response on appeal, or in lieu of request of appeal to the INS, the family may also request that the HA provide an informal hearing.

j. Chapter 10 covers delay, deferral or termination of assistance.

k. Chapter 11 provides guidance for the proration of assistance to mixed families, i.e., families where one or more members of the family are not citizens or do not have eligible citizenship status.

l. Chapter 12 discusses protection from liability afforded by the legislation and Noncitizens Rule to a responsible entity, or state, local and tribal government agencies, and their officials.

m. Appendixes contain reference and other supportive information.

1-7. References/Citations. Where applicable, cross references to the Noncitizens Rule are provided within each paragraph. References to the Code of Federal Regulations (CFR), i.e., to 24 CFR, are located within brackets ([...]). For example, the Noncitizens Rule references applicable to the "Definitions" section of the Noncitizens Rule are:

- o For Section 8 programs: 812.2
- o For Indian housing programs: 950.102
- o For public housing programs: 912.2

Thus, the references to the above citations would be presented in the text as: [812.2; 950.102; 912.2].

Special notation regarding references to Indian housing program citations: As published in the Noncitizens Rule, citations applicable to the Indian housing program refer to 24 CFR Part 905. However, the revised consolidated Indian housing regulations, published in the Federal Register on April 10, 1995, with an effective date of May 10, 1995, provided that 24 CFR Part 905 was renumbered as 24 CFR Part 950. Since the regulation will be published in the Code of Federal Regulations, for correctness, the citations given in this Guidebook are keyed to the revised citations, i.e., to Part 950. Thus, if it is necessary to refer to the Noncitizens Rule, as published, it will be necessary to convert the Guidebook's references for Indian housing from Part 950 to the earlier Part 905. For example, in the reference shown above with respect to "Definitions," the correct CFR reference is 950.102. In the March 20, 1995, issue of the Federal Register, however, you would need to look for 905.102 (located on page 14849 in the published Noncitizens Rule). Both the previous and current citations are provided where the consolidated numbering the Federal nondiscrimination requirements of, including, but not limited to, the following: [812.13; 912.13]

- o Title VI of the Civil Right Act of 1964 (42 U.S.C. 2000d-2000d-5) and the implementing regulations in 24 CFR Part 1;

- o Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations in 24 CFR Part 8;

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- o The Fair Housing Act (42 U.S.C. 3601-3619) and the implementing regulations in 24 CFR Part 100, and

- o Other civil rights statues cited in the applicable program regulations.

These statutes prohibit, among other things, discriminatory practices on the basis of race, color, national origin, sex, religion, age, disability and familial status in the provision of housing. The HA

should be aware that the decisions based upon any of these factors, and which are not otherwise authorized by the statute or regulation, may be a violation of the Fair Housing Act.

Note: This paragraph (1-8) does not apply to Indian Housing Authorities (IHAs). Separate nondiscrimination rules are applicable to IHAs. For additional information, see 24 CFR 950.115 (formerly 24 CFR 905.105), Applicability of civil rights requirements.

1-9. Supplemental Information. Supplemental information on the implementation of Section 214 is provided in Appendix B using the Question and Answer format.