

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Centers for Medicare & Medicaid Services****42 CFR Part 433****State Fiscal Administration***CFR Correction*

■ In Title 42 of the Code of Federal Regulations, Parts 430 to 481, revised as of October 1, 2012, on page 98, in § 433.50, paragraphs (a)(1)(i) and (a)(1)(ii) are removed.

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**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency****44 CFR Part 206**

[Docket ID FEMA-2010-0035]

RIN 1660-AA68

**Housing Assistance Due to Structural Damage**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** Under the authority of section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), the Federal Emergency Management Agency (FEMA) provides financial assistance to individuals and households to repair or replace their homes after a Presidentially-declared major disaster or emergency. This rule finalizes revisions to FEMA's repair, replacement, and housing construction assistance regulations that clarify the eligibility criteria for assistance and implement changes to section 408 of the Stafford Act that were made by the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA).

**DATES:** This rule is effective December 9, 2013.

**FOR FURTHER INFORMATION CONTACT:** John Carleton, FEMA, Individual Assistance Division, 500 C Street SW., Washington, DC 20472-3100, (phone) 202-212-1000, (facsimile) (202) 212-1005, or (email) [FEMA-IA-Regulations@fema.dhs.gov](mailto:FEMA-IA-Regulations@fema.dhs.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

Section 408 of the Robert T. Stafford Disaster Relief and Emergency

Assistance Act (Stafford Act) provides the Federal Emergency Management Agency (FEMA) with the authority to administer the Individuals and Households program (IHP). See 42 U.S.C. 5174. Through the IHP, FEMA provides financial and/or direct assistance to help survivors recover from Presidentially-declared emergencies and major disasters. This help may be in the form of housing assistance as well as assistance to meet "other needs" such as medical, dental, funeral, and personal property.

Specifically, FEMA provides the following types of housing assistance: *Temporary Housing:* Financial assistance is available to rent a different place to live for a limited period of time. When rental properties are not available, FEMA may provide direct assistance in the form of a temporary housing unit.

*Housing Repair:* Financial assistance is available to homeowners to repair disaster damage to their primary residence. Assistance is only available to repair damage that is not covered by insurance. The goal is to make the damaged home safe, sanitary, and functional.

*Housing Replacement:* Financial assistance is available to homeowners to replace their primary residence if it was destroyed in the disaster. Assistance is only available for damage that is not covered by insurance.

*Permanent and Semi-Permanent Housing Construction:* In exceptional circumstances, FEMA is authorized to provide permanent and semi-permanent housing construction. If FEMA exercises its discretion to offer this form of disaster assistance, FEMA may provide financial assistance for the construction of a home, or may construct the new permanent or semi-permanent housing unit for an individual or household. This type of assistance is currently provided only in insular areas or locations specified by FEMA where no other type of housing assistance is available, feasible, or cost-effective. Assistance is provided only for damage that is not covered by insurance.

The regulations establishing the types of IHP assistance available, the eligibility requirements for assistance, and the procedures for obtaining assistance are in 44 CFR part 206, subparts D and F.

On September 30, 2002, FEMA published an interim rule in the **Federal Register**, which revised its regulations implementing the IHP. See 67 FR 61446. FEMA published a correction to the interim rule on October 9, 2002. See 67 FR 62896. Among other things, the interim rule established the housing

repair, replacement, and construction eligibility regulations in 44 CFR 206.117. These regulations are currently in effect, with minor amendments. See 74 FR 15328 (Apr. 3, 2009).

On July 30, 2012, FEMA published a notice of proposed rulemaking (NPRM), which addressed the public comments received on the 2002 interim rule related to housing repair and replacement. See 77 FR 44562. In addition, the NPRM proposed revisions intended to clarify and improve FEMA's eligibility requirements for housing repair assistance as well as implement and codify PKEMRA legislative changes made after the interim rule was published.

**II. Summary of the Proposed Rule**

In the NPRM, FEMA proposed four separate sets of changes. First, FEMA proposed revisions to the interim rule to respond to public comments received on the 2002 interim rule. Second, FEMA proposed changes that were intended to restate the existing requirements more clearly and in greater detail, without substantively changing the underlying requirements. Third, consistent with statutory amendments in the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA), FEMA proposed removing the housing repair and replacement subcaps. Finally, also consistent with statutory amendments in PKEMRA, FEMA proposed adding the term "semi-permanent" and removing the term "remote" with respect to the eligibility requirements for housing construction pursuant to PKEMRA.

This final rule codifies the above changes as discussed in the NPRM. For additional background information on these proposed changes, please refer to the NPRM.

**III. Discussion of Comments Received on the Notice of Proposed Rulemaking**

FEMA received two written comments in response to the NPRM. The first commenter stated that FEMA's regulations should be clearer. The commenter expressed that FEMA must be able to make things as clear as possible for disaster survivors.

The second commenter raised four separate points in its comment. First, the commenter noted that since FEMA was no longer applying the housing repair and replacement subcaps and allowing applicants to have the maximum IHP award for housing assistance, there would be no additional money available to award for Other Needs Assistance (ONA). The commenter asked whether an additional amount, such as \$3,000, can be available