

potential problem areas; and any deviations from the approved plan. The Regional Administrator may require additional annexes as necessary for subsequent phases of the operation.

(3) *Evaluation of capability.* State and local government assumption of the temporary housing assistance program for a particular disaster shall be approved by the Assistant Administrator for the Disaster Assistance Directorate based on an evaluation of the capabilities and commitment of the entity by the Regional Administrator. At a minimum, the evaluation shall include a review of the following:

(i) The State temporary housing assistance plan which has been approved by the Regional Administrator prior to the incident, and the specific operational annex which has been approved in accordance with paragraph (s)(2) of this section.

(ii) Past performance in administration of temporary housing assistance or other similar operations;

(iii) Management and staff capabilities; and

(iv) Demonstrated understanding of the tasks to be performed.

(4) *Grant application.* Approval of funding shall be obtained through submission of a project application by the State or local government through the Governor's Authorized Representative. The State shall maintain adequate documentation according to the requirements of 44 CFR part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, to enable analysis of the program. Final reimbursement to the State, or final debt collection, shall be based on an examination of the voucher filed by the State.

(5) *Authorized costs.* All expenditures associated with administering the program are authorized if in compliance with 44 CFR 13.22, Allowable Costs, and the associated OMB Circular A–87, Cost Principles for State and Local Governments. Examples of program costs allowable under the Temporary Housing Assistance program include home repairs, costs associated with rental payments, reimbursements for temporary housing including transient accommodations and commercial site rental,

mobile home installation and maintenance, mobile home private site development, cost of supplemental assistance, mortgage and rental payments, other necessary costs, when approved by the Assistant Administrator for the Disaster Assistance Directorate. All contracts require the review and approval of the Regional Administrator prior to award, in order to be considered as an authorized expenditure.

(6) *Federal monitoring and oversight.* The Regional Administrator shall monitor State-administered activities since he/she remains responsible for the overall delivery of temporary housing assistance. In addition, policy guidance and interpretations to meet specific needs of a disaster shall be provided through the oversight function.

(7) *Technical assistance.* The Regional Administrator shall provide technical assistance as necessary to support State-administered operations through training, procedural issuances, and by providing experienced personnel to assist the State and local staff.

(8) *Operational resources.* The Regional Administrator shall make available for use in State or locally administered temporary housing programs Federal stand-by contracts, memoranda of understanding with Government and voluntary agencies, and Federal property, such as government-owned mobile homes and travel trailers.

(9) *Program reviews and audits.* The State shall conduct program review of each operation. All operations are subject to Federal audit.

[55 FR 2296, Jan. 23, 1990, as amended at 61 FR 7224, Feb. 27, 1996; 64 FR 46853, Aug. 27, 1999; 67 FR 61460, Sept. 30, 2002; 74 FR 15347, Apr. 3, 2009]

#### §§ 206.102–206.109 [Reserved]

#### § 206.110 Federal assistance to individuals and households.

(a) *Purpose.* This section implements the policy and procedures set forth in section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5174, as amended by the Disaster Mitigation Act of 2000.

This program provides financial assistance and, if necessary, direct assistance to eligible individuals and households who, as a direct result of a major disaster or emergency, have uninsured or under-insured, necessary expenses and serious needs and are unable to meet such expenses or needs through other means.

(b) *Maximum amount of assistance.* No individual or household will receive financial assistance greater than \$25,000 under this subpart with respect to a single major disaster or emergency. FEMA will adjust the \$25,000 limit annually to reflect changes in the Consumer Price Index (CPI) for All Urban Consumers that the Department of Labor publishes.

(c) *Multiple types of assistance.* One or more types of housing assistance may be made available under this section to meet the needs of individuals and households in the particular disaster situation. FEMA shall determine the appropriate types of housing assistance to be provided under this section based on considerations of cost effectiveness, convenience to the individuals and households and the suitability and availability of the types of assistance. An applicant is expected to accept the first offer of housing assistance; unwarranted refusal of assistance may result in the forfeiture of future housing assistance. Temporary housing and repair assistance shall be utilized to the fullest extent practicable before other types of housing assistance.

(d) *Date of eligibility.* Eligibility for Federal assistance under this subpart will begin on the date of the incident that results in a presidential declaration that a major disaster or emergency exists, except that reasonable lodging expenses that are incurred in anticipation of and immediately preceding such event may be eligible for Federal assistance under this chapter.

(e) *Period of assistance.* FEMA may provide assistance under this subpart for a period not to exceed 18 months from the date of declaration. The Assistant Administrator for the Disaster Assistance Directorate may extend this period if he/she determines that due to extraordinary circumstances an extension would be in the public interest.

(f) *Assistance not counted as income.* Assistance under this subpart is not to be counted as income or a resource in the determination of eligibility for welfare, income assistance or income-tested benefit programs that the Federal Government funds.

(g) *Exemption from garnishment.* All assistance provided under this subpart is exempt from garnishment, seizure, encumbrance, levy, execution, pledge, attachment, release or waiver. Recipients of rights under this provision may not reassign or transfer the rights. These exemptions do not apply to FEMA recovering assistance fraudulently obtained or misapplied.

(h) *Duplication of benefits.* In accordance with the requirements of section 312 of the Stafford Act, 42 U.S.C. 5155, FEMA will not provide assistance under this subpart when any other source has already provided such assistance or when such assistance is available from any other source. In the instance of insured applicants, we will provide assistance under this subpart only when:

- (1) Payment of the applicable benefits are significantly delayed;
- (2) Applicable benefits are exhausted;
- (3) Applicable benefits are insufficient to cover the housing or other needs; or
- (4) Housing is not available on the private market.

(i) *Cost sharing.* (1) Except as provided in paragraph (i)(2) of this section, the Federal share of eligible costs paid under this subpart shall be 100 percent.

(2) Federal and State cost shares for "Other Needs" assistance under subsections 408 (e) and (f) of the Stafford Act will be as follows;

(i) The Federal share shall be 75 percent; and

(ii) The non-federal share shall be paid from funds made available by the State. If the State does not provide the non-Federal share to FEMA before FEMA begins to provide assistance to individuals and households under subsection 408(e) of the Stafford Act, FEMA will still process applications. The State will then be obliged to reimburse FEMA for the non-Federal cost share of such assistance on a monthly basis. If the State does not provide such reimbursement on a monthly

basis, then FEMA will issue a Bill for Collection to the State on a monthly basis for the duration of the program. FEMA will charge interest, penalties, and administrative fees on delinquent Bills for Collection in accordance with the Debt Collection Improvement Act. Cost shared funds, interest, penalties and fees owed to FEMA through delinquent Bills for Collections may be offset from other FEMA disaster assistance programs (*i.e.* Public Assistance) from which the State is receiving, or future grant awards from FEMA or other Federal Agencies. Debt Collection procedures will be followed as outlined in 44 CFR part 11.

(j) *Application of the Privacy Act.* (1) All provisions of the Privacy Act of 1974, 5 U.S.C. 552a, apply to this subpart. FEMA may not disclose an applicant's record except:

(i) In response to a release signed by the applicant that specifies the purpose for the release, to whom the release is to be made, and that the applicant authorizes the release;

(ii) In accordance with one of the published routine uses in our system of records; or

(iii) As provided in paragraph (j)(2) of this section.

(2) Under section 408(f)(2) of the Stafford Act, 42 U.S.C. 5174(f)(2), FEMA must share applicant information with States in order for the States to make available any additional State and local disaster assistance to individuals and households.

(i) States receiving applicant information under this paragraph must protect such information in the same manner that the Privacy Act requires FEMA to protect it.

(ii) States receiving such applicant information shall not further disclose the information to other entities, and shall not use it for purposes other than providing additional State or local disaster assistance to individuals and households.

(k) *Flood Disaster Protection Act requirement.* (1) The Flood Disaster Protection Act of 1973, Public Law 93-234, as amended (42 U.S.C. 4106), imposes certain restrictions on federal financial assistance for acquisition and construction purposes. For the purpose of this paragraph, *financial assistance for*

*acquisition or construction purposes* means assistance to an individual or household to buy, receive, build, repair or improve insurable portions of a home and/or to purchase or repair insurable contents. For a discussion of what elements of a home and contents are insurable, *See* 44 CFR part 61, Insurance Coverage and Rates.

(2) Individuals or households that are located in a special flood hazard area may not receive Federal Assistance for National Flood Insurance Program (NFIP)—insurable real and/or personal property, damaged by a flood, unless the community in which the property is located is participating in the NFIP (*See* 44 CFR part 59.1), or the exception in 42 U.S.C. 4105(d) applies. However, if the community in which the damaged property is located qualifies for and enters the NFIP during the six-month period following the declaration, the Governor's Authorized Representative may request a time extension for FEMA (*See* § 206.112) to accept registrations and to process assistance applications in that community.

(3) *Flood insurance purchase requirement:* (i) As a condition of the assistance and in order to receive any Federal assistance for future flood damage to any insurable property, individuals and households named by FEMA as eligible recipients under section 408 of the Stafford Act who receive assistance, due to flood damages, for acquisition or construction purposes under this subpart must buy and maintain flood insurance, as required in 42 U.S.C. 4012a, for at least the assistance amount. This applies only to real and personal property that is in or will be in a designated Special Flood Hazard Area and that can be insured under the National Flood Insurance Program.

(A) If the applicant is a homeowner, flood insurance coverage must be maintained at the address of the flood-damaged property for as long as the address exists. The flood insurance requirement is reassigned to any subsequent owner of the flood-damaged address.

(B) If the applicant is a renter, flood insurance coverage must be maintained on the contents for as long as the renter resides at the flood-damaged rental unit. The restriction is lifted

once the renter moves from the rental unit.

(C) When financial assistance is used to purchase a dwelling, flood insurance coverage must be maintained on the dwelling for as long as the dwelling exists and is located in a designated Special Flood Hazard Area. The flood insurance requirement is reassigned to any subsequent owner of the dwelling.

(ii) FEMA may not provide financial assistance for acquisition or construction purposes to individuals or households who fail to buy and maintain flood insurance required under paragraph (k)(3)(i) of this section or required by the Small Business Administration.

(l) *Environmental requirements.* Assistance provided under this subpart must comply with the National Environmental Policy Act (NEPA) and other environmental laws and Executive Orders, consistent with 44 CFR part 10.

(m) *Historic preservation.* Assistance provided under this subpart generally does not have the potential to affect historic properties and thus is exempted from review in accordance with section 106 of the National Historic Preservation Act, with the exception of ground disturbing activities and construction related to §§ 206.117(b)(1)(ii) (Temporary housing), 206.117(b)(3) (Replacement housing), and 206.117(b)(4) (Permanent housing construction).

[67 FR 61452, Sept. 30, 2002; 67 FR 62896, Oct. 9, 2002]

#### § 206.111 Definitions.

*Adequate, alternate housing* means housing that accommodates the needs of the occupants; is within the normal commuting patterns of the area or is within reasonable commuting distance of work, school, or agricultural activities that provide over 50 percent of the household income; and is within the financial ability of the occupant.

*Alternative housing resources* means any housing that is available or can quickly be made available in lieu of permanent housing construction and is cost-effective when compared to permanent construction costs. Some examples are rental resources, mobile homes and travel trailers.

*Applicant* means an individual or household who has applied for assistance under this subpart.

*Assistance from other* means includes monetary or in-kind contributions from voluntary or charitable organizations, insurance, other governmental programs, or from any sources other than those of the applicant.

*Dependent* means someone who is normally claimed as such on the Federal tax return of another, according to the Internal Revenue Code. It may also mean the minor children of a couple not living together, where the children live in the affected residence with the parent or guardian who does not actually claim them on the tax return.

*Displaced applicant* means one whose primary residence is uninhabitable, inaccessible, made unavailable by the landlord (to meet their disaster housing need) or not functional as a direct result of the disaster and has no other housing available in the area, *i.e.*, a secondary home or vacation home.

*Effective date of assistance* means the date that the applicant was determined eligible for assistance.

*Eligible hazard mitigation measures* are home improvements that an applicant can accomplish in order to reduce or prevent future disaster damages to essential components of the home.

*Fair market rent* means housing market-wide estimates of rents that provide opportunities to rent standard quality housing throughout the geographic area in which rental housing units are in competition. The fair market rent rates applied are those identified by the Department of Housing and Urban Development as being adequate for existing rental housing in a particular area.

*Financial ability* means the applicant's capability to pay housing costs. If the household income has not changed subsequent to or as a result of the disaster then the determination is based upon the amount paid for housing before the disaster. If the household income is reduced as a result of the disaster then the applicant will be deemed capable of paying 30 percent of gross post disaster income for housing.