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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2015-0020]

Recovery Policy: Stafford Act Section 705, Disaster Grant Closeout Procedures

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This document provides notice of the availability of the final policy FP 205-081-2, Stafford Act Section 705, Disaster Grant Closeout Procedures. The Federal Emergency Management Agency (FEMA) published a notice of availability and request for comment for the proposed policy on September 30, 2015 at 80 FR 58751.

DATES: This policy is effective March 31, 2016.

ADDRESSES: This final policy is available at <http://www.regulations.gov> under docket ID FEMA-2015-0020 and on FEMA's website at <http://www.fema.gov>. The proposed and final policy, all related Federal Register notices, and all public comments received during the comment period are available at <http://www.regulations.gov> under docket ID FEMA-2015-0020. You may also view a hard copy of the final policy at the Office of Chief Counsel, Federal Emergency Management Agency, 500 C St. SW, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: William Roche, Federal Emergency Management Agency, 500 C Street SW, Washington, D.C. 20472, 202-212-2340.

SUPPLEMENTARY INFORMATION: This policy clarifies FEMA's requirements under Section 705 of the Robert T. Stafford Disaster Relief and Emergency Assistance

Act (Act), and establishes the guidelines to determine whether Section 705 applies to prohibit FEMA from recovering payments made under the Public Assistance Program. The substantive change to this final policy from the proposed policy that was published in the Federal Register on September 30, 2015 is the guidance for determining when payment has been made under the Act. The final policy establishes in policy Section VII.B.1.a that “Payment has occurred when the recipient draws down funds obligated for the completion of the approved scope of work through SmartLink.” This is a revision to the proposed policy which stated that payment occurred when the recipient or pass through entity had drawn down all funds necessary to complete the approved scope of work through SmartLink (emphasis added). The final policy further clarifies that if Section 705(c) applies, FEMA is prohibited from recovering payments made (e.g., the amount of funds drawn down by the recipient in association with completion of the approved scope of work), but that FEMA is not prohibited from deobligating funds that the recipient has not drawn down. The final policy also adds language explicitly establishing that when Section 705(a) Statute of Limitations applies to prohibit FEMA from directly recovering subject payments, FEMA will still pursue administrative offset as appropriate pursuant to the Debt Collection Improvement Act of 1996, as amended, unless Section 705(c) prohibits the recovery of funds.

The final policy does not have the force or effect of law.

Authority: 42 U.S.C. 5205.

Dated: March 29, 2016.

W. Craig Fugate
Administrator,

Federal Emergency Management Agency.

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