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U.S.C. 1921 *et seq.*) to the Deputy Administrator for Farm Loan Programs subject to any limitations established in 7 CFR 2.16(a)(2) and 7 CFR 2.42.

(b) The Deputy Administrator:

(1) Delegates to each State Executive Director within the State Executive Director's jurisdiction the authority, and in the absence of the State Executive Director, the person acting in that position, to act for, on behalf of, and in the name of the United States of America or the Farm Service Agency to do and perform acts necessary in connection with making and guaranteeing loans, such as, but not limited to, making advances, servicing loans and other indebtedness, and obtaining, servicing, and enforcing or releasing security and other instruments related to the loan. For actions that do not result in a loss to the Farm Service Agency, a State Executive Director may redelegate authorities received under this paragraph to a Farm Loan Chief, Farm Loan Specialist, District Director, Farm Loan Manager, or Senior Farm Loan Officer, Farm Loan Officer, Loan Analyst, Loan Resolution Specialist, or Program Technician.

(2) May establish procedures for further re delegation or limitation of authority.

(c) This part and parts 762 through 767 of this subchapter describe the Agency's policies for its Farm Loan Programs. The objective of these programs is to provide progression lending and management assistance to eligible farmers to become owners or operators, or both, of family farms, to continue such operations when credit is not available elsewhere, or to return to normal farming operations after sustaining substantial losses as a result of a designated or declared disaster. The programs are designed to allow those who participate to transition to private commercial credit or other sources of credit in the shortest period of time practicable through the use of progression lending, including farm assessments, borrower training, market placement, and borrower graduation requirements. These regulations apply to loan applicants, borrowers, lenders, holders, Agency personnel, and other parties involved in making, guaran-

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teeing, holding, servicing, or liquidating such loans.

(d) This part describes the Agency's general and administrative policies for its guaranteed and direct Farm Loan Programs. In general, this part addresses issues that affect both guaranteed and direct loan programs.

(e) Part 3 of this title and 31 CFR part 285 describe the policies and procedures the Agency will follow for non-centralized offset (including administrative offset) and referral to Treasury for centralized offset (TOP), Federal salary offset, Administrative Wage Garnishment, and collection through Treasury's private collection agencies (cross-servicing). Supplemental provisions for FLP purposes are described in part 761, subpart F of this title.

(f) Part 3 of this title and 31 CFR parts 900-904 describe the policies and procedures the Agency will follow for debt settlement authorities pursuant to the Federal Claims Collection Standards. Supplemental provisions for FLP purposes are described in part 761, subpart F of this title.

(g) Part 761, subpart F of this title describes the debt settlement policies and procedures for FLP debt pursuant to the Act.

[72 FR 63285, Nov. 8, 2007, as amended at 76 FR 5057, Jan. 28, 2011; 83 FR 11869, Mar. 19, 2018; 85 FR 36691, June 17, 2020; 87 FR 13123, Mar. 9, 2022]

§761.2 Abbreviations and definitions.

The following abbreviations and definitions are applicable to the Farm Loan Programs addressed in parts 761 through 767 and 769 unless otherwise noted.

(a) *Abbreviations.*

ARA Alternative Repayment Agreement.

CL Conservation Loan.

CLP Certified Lender Program.

DSA Disaster Set-Aside.

EE Economic Emergency loan.

EM Emergency loan.

FCCS Federal Claims Collection Standards.

FLP Farm Loan Programs.

FO Farm Ownership loan.

FSA Farm Service Agency, an Agency of the USDA, including its personnel and any successor Agency.

Farm Service Agency, USDA

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HPRP The Heirs' Property Relending Program.

LIBOR London Interbank Offered Rate.

ML Microloan.

MLP Micro Lender Program.

NRCS National Resources and Conservation Service, USDA.

OIG Office of the Inspector General, USDA.

OGC Office of the General Counsel of the USDA.

OL Operating loan.

PLP Preferred Lender Program.

RHF Rural Housing loan for farm service buildings.

RL Recreation loan.

SAA Shared Appreciation Agreement.

SA Shared Appreciation loan.

SEL Standard Eligible Lender.

ST Softwood Timber loan.

SW Soil and Water loan.

USDA United States Department of Agriculture.

USPAP Uniform Standards of Professional Appraisal Practice.

(b) *Definitions.*

Abandoned security property is security property that a borrower is not occupying, is not in possession of, or has relinquished control of and has not made arrangements for its care or sale.

Accrued deferred interest is unpaid interest from past due installments posted to a borrower's loan account.

Act is the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*).

Additional security is property which provides security in excess of the amount of security value equal to the loan amount.

Adequate security is property which is required to provide security value at least equal to the direct loan amount.

Adjustment means the settlement of an FLP debt for less than the total amount owed. The adjusted amount is collected through a series of payments that are scheduled over time. An adjustment is not a final settlement until all scheduled payments have been made. After applying all payments pursuant to the adjustment agreement, any remaining balance is canceled. The amount canceled is reported to the IRS pursuant to §3.90 of this title and applicable IRS requirements.

Administrative appraisal review is a review of an appraisal to determine if the appraisal:

(1) Meets applicable Agency requirements; and

(2) Is accurate outside the requirements of standard 3 of USPAP.

Agency is the FSA.

Agreement for the use of proceeds is an agreement between the borrower and the Agency for each production cycle that reflects the proceeds from the sale of normal income security that will be used to pay scheduled FLP loan installments, including any past due installments, during the production cycle covered by the agreement.

Agricultural commodity means livestock, grains, cotton, oilseeds, dry beans, tobacco, peanuts, sugar beets, sugar cane, fruit, vegetable, forage, nursery crops, nuts, aquacultural species, and the products resulting from: livestock, tree farming, and other plant or animal production as determined by the Agency.

Allonge is an attachment or an addendum to a promissory note.

Allowable costs are those costs for replacement or repair that are supported by acceptable documentation, including, but not limited to, written estimates, invoices, and bills.

Alternative repayment agreement is a written repayment agreement accepted by both the borrower and the Agency as specified in §§3.42(b) and 3.80 of this title. The agreement may allow for payments to be made from the borrower to the Agency as an alternative to collecting the payment amounts through administrative offset, or Federal salary offset.

Applicant is the individual or entity applying for a loan or loan servicing under either the direct or guaranteed loan program.

Apprentice means an individual who receives applied guidance and input from an individual with the skills and knowledge pertinent to the successful operation of the farm enterprise being financed.

Aquaculture is the husbandry of any aquatic organisms (including fish, mollusks, crustaceans or other invertebrates, amphibians, reptiles, or aquatic

plants) raised in a controlled or selected environment of which the applicant has exclusive rights to use.

Assignment of guaranteed portion is a process by which the lender transfers the right to receive payments or income on a guaranteed loan to another party, usually in return for payment in the amount of the loan's guaranteed principal. The lender retains the unguaranteed portion in its portfolio and receives a fee from the purchaser or assignee to service the loan and receive and remit payments according to a written assignment agreement. This assignment can be reassigned or sold multiple times.

Assignment of indemnity is the transfer of rights to compensation under an insurance contract.

Assistance is financial assistance in the form of a direct or guaranteed loan or interest subsidy or servicing action.

Assumption is the act of agreeing to be legally responsible for another party's indebtedness.

Assumption agreement is a written agreement on the appropriate Agency form to pay the FLP debt incurred by another.

Basic part of an applicant's total farming operation is any single agricultural commodity or livestock production enterprise of an applicant's farming operation which normally generates sufficient income to be considered essential to the success of such farming operation.

Basic security is all farm machinery, equipment, vehicles, foundation and breeding livestock herds and flocks, including replacements, and real estate that serves as security for a loan made or guaranteed by the Agency.

Beginning farmer is an individual or entity who:

(1) Meets the loan eligibility requirements for a direct or guaranteed CL, FO, or OL, as applicable;

(2) Has not operated a farm for more than 10 years. This requirement applies to all members of an entity;

(3) Will materially and substantially participate in the operation of the farm:

(i) In the case of a loan made to an individual, individually or with the family members, material and substantial participation requires that the in-

dividual provide substantial day-to-day labor and management of the farm, consistent with the practices in the county or State where the farm is located.

(ii) In the case of a loan made to an entity, all members must materially and substantially participate in the operation of the farm. Material and substantial participation requires that the member provide some amount of the management, or labor and management necessary for day-to-day activities, such that if the individual did not provide these inputs, operation of the farm would be seriously impaired;

(4) Agrees to participate in any loan assessment and borrower training required by Agency regulations;

(5) Except for an OL applicant, does not own real farm property or who, directly or through interests in family farm entities owns real farm property, the aggregate acreage of which does not exceed 30 percent of the average farm acreage of the farms in the county where the property is located. If the farm is located in more than one county, the average farm acreage of the county where the applicant's residence is located will be used in the calculation. If the applicant's residence is not located on the farm or if the applicant is an entity, the average farm acreage of the county where the major portion of the farm is located will be used. The average county farm acreage will be determined from the most recent Census of Agriculture;

(6) Demonstrates that the available resources of the applicant and spouse (if any) are not sufficient to enable the applicant to enter or continue farming on a viable scale; and

(7) In the case of an entity:

(i) All the members are related by blood or marriage; and

(ii) All the members are beginning farmers.

Borrower (or debtor) is an individual or entity that has an outstanding obligation to the Agency or to a lender under any direct or guaranteed FLP loan, without regard to whether the loan has been accelerated. The term "borrower" includes all parties liable for such obligation, including collection-only borrowers, except for debtors whose total loans and accounts have

been voluntarily or involuntarily foreclosed, sold, or conveyed, or who have been discharged of all such obligations owed to the Agency or guaranteed lender.

Cancellation means the final resolution of an FLP debt without receiving payment in full. Any amounts still owed, after applying payments in accordance with approved adjustment and compromise agreements, is canceled. The amount canceled is reported to the IRS pursuant to § 3.90 of this title and applicable IRS requirements.

Cash flow budget is a projection listing all anticipated cash inflows (including all farm income, nonfarm income and all loan advances) and all cash outflows (including all farm and nonfarm debt service and other expenses) to be incurred during the period of the budget. Advances and principal repayments of lines of credit may be excluded from a cash flow budget. Cash flow budgets for guaranteed loans under \$125,000 do not require income and expenses itemized by categories. A cash flow budget may be completed either for a 12-month period, a typical production cycle, or the life of the loan, as appropriate. It may also be prepared with a breakdown of cash inflows and outflows for each month of the review period and include the expected outstanding operating credit balance for the end of each month. The latter type is referred to as a "monthly cash flow budget."

Chattel or real estate essential to the operation is chattel or real estate that would be necessary for the applicant to continue operating the farm after the disaster in a manner similar to the manner in which the farm was operated immediately prior to the disaster, as determined by the Agency.

Chattel security is property that may consist of, but is not limited to: Crops; livestock; aquaculture species; farm equipment; inventory; accounts; contract rights; general intangibles; and supplies that are covered by financing statements and security agreements, chattel mortgages, and other security instruments.

Civil action is a court proceeding to protect the Agency's financial interests. A civil action does not include bankruptcy and similar proceedings to

impound and distribute the bankrupt's assets to creditors, or probate or similar proceedings to settle and distribute estates of incompetents or decedents, and pay claims of creditors.

Closing agent is the attorney or title insurance company selected by the applicant and approved by the Agency to provide closing services for the proposed loan or servicing action. Unless a title insurance company provides loan closing services, the term "title company" does not include "title insurance company."

Coastal barrier is an area of land identified as part of the national Coastal Barrier Resources System under the Coastal Barrier Resources Act of 1980.

Compromise is the settlement of an FLP debt or claim by a lump-sum payment of less than the total amount owed in satisfaction of the debt or claim.

Conditional commitment is the Agency's commitment to a lender that the material the lender has submitted is approved subject to the completion of all listed conditions and requirements.

Conservation Contract is a contract under which a borrower agrees to set aside land for conservation, recreation or wildlife purposes in exchange for reduction of a portion of an outstanding FLP debt.

Conservation Contract review team is comprised by the appropriate offices of FSA, the Natural Resources Conservation Service, U.S. Fish and Wildlife Service, State Fish and Wildlife Agencies, Conservation Districts, National Park Service, Forest Service, State Historic Preservation Officer, State Conservation Agencies, State Environmental Protection Agency, State Natural Resource Agencies, adjacent public landowner, and any other entity that may have an interest and qualifies to be a management authority for a proposed conservation contract.

Conservation loan means a loan made to eligible applicants to cover the costs to the applicant of carrying out a qualified conservation project.

Conservation plan means an NRCS-approved written record of the land user's decisions and supporting information, for treatment of a land unit or water as a result of the planning process, that meets NRCS Field Office Technical

Guide (FOTG) quality criteria for each natural resource (soil, water, air, plants, and animals) and takes into account economic and social considerations. The conservation plan describes the schedule of operations and activities needed to solve identified natural resource problems and takes advantage of opportunities at a conservation management system level. This definition only applies to the direct loans and guaranteed loans for the Conservation Loan Program.

Conservation practice means a specific treatment, such as a structural or vegetative measure, or management technique, commonly used to meet specific needs in planning and implementing conservation, for which standards and specifications have been developed. Conservation practices are contained in the appropriate NRCS Field Office Technical Guide (FOTG), which is based on the National Handbook of Conservation Practices (NHCP).

Conservation project means conservation measures that address provisions of a conservation plan or Forest Stewardship Management Plan.

Consolidation is the process of combining the outstanding principal and interest balance of two or more loans of the same type made for operating purposes.

Construction is work such as erecting, repairing, remodeling, relocating, adding to, or salvaging any building or structure, and the installing, repairing, or adding to heating and electrical systems, water systems, sewage disposal systems, walks, steps, and driveways.

Controlled is when a director or an employee has more than a 50 percent ownership in an entity or, the director or employee, together with relatives of the director or employee, have more than a 50 percent ownership.

Controlled substance is the term as defined in 21 U.S.C. 812.

Cooperative is an entity that has farming as its purpose, whose members have agreed to share the profits of the farming enterprise, and is recognized as a farm cooperative by the laws of the state in which the entity will operate a farm.

Corporation is a private domestic corporation created and organized under

the laws of the state in which it will operate a farm.

Cosigner is a party, other than the applicant, who joins in the execution of a promissory note to assure its repayment. The cosigner becomes jointly and severally liable to comply with the repayment terms of the note, but is not authorized to severally receive loan servicing available under 7 CFR parts 765 and 766. In the case of an entity applicant, the cosigner cannot be a member of the entity.

County is a local administrative subdivision of a State or similar political subdivision of the United States.

County average yield is the historical average yield for an agricultural commodity in a particular political subdivision, as determined or published by a government entity or other recognized source.

Criminal action is the prosecution by the United States to exact punishment in the form of fines or imprisonment for alleged violation of criminal statutes.

Crop allotment or quota is a farm's share of an approved national tobacco or peanut allotment or quota.

Current market value buyout is the termination of a borrower's loan obligations to the Agency in exchange for payment of the current appraised value of the borrower's security property and non-essential assets, less any prior liens.

Debt forgiveness means the reduction or termination of a debt under the Act in a manner that results in a loss to the Agency, through:

(i)(A) Writing down or writing off a debt pursuant to 7 U.S.C. 2001;

(B) Cancellation of remaining amounts owed after compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981;

(C) Paying a loss pursuant to 7 U.S.C. 2005 on a FLP loan guaranteed by the Agency;

(D) Discharging a debt as a result of bankruptcy; or

(E) Releases of liability which result in a loss to the Agency.

(ii) Debt forgiveness does not include:

(A) Debt reduction through a conservation contract;

(B) Any writedown provided as part of the resolution of a discrimination complaint against the Agency;

(C) Prior debt forgiveness that has been repaid in its entirety;

(D) Consolidation, rescheduling, re-amortization, or deferral of a loan; and

(E) Forgiveness of a YL debt due to circumstances beyond the borrower's control.

Debt settlement is a compromise, adjustment, or cancellation of an FLP debt.

Debt service margin is the difference between all of the borrower's expected expenditures in a planning period (including farm operating expenses, capital expenses, essential family living expenses, and debt payments) and the borrower's projected funds available to pay all expenses and payments.

Debt writedown is the reduction of the borrower's debt to that amount the Agency determines to be collectible based on an analysis of the security value and the borrower's ability to pay.

Default is the failure of a borrower to observe any agreement with the Agency, or the lender in the case of a guaranteed loan, as contained in promissory notes, security instruments, and similar or related instruments.

Deferral is a postponement of the payment of interest or principal, or both.

Delinquent borrower, for loan servicing purposes, is a borrower who has failed to make all scheduled payments by the due date.

Direct loan is a loan funded and serviced by the Agency as the lender.

Disaster is an event of unusual and adverse weather conditions or other natural phenomena, or quarantine, that has substantially affected the production of agricultural commodities by causing physical property or production losses in a county, or similar political subdivision, that triggered the inclusion of such county or political subdivision in the disaster area as designated by the Agency.

Disaster area is the county or counties declared or designated as a disaster area for EM loan assistance as a result of disaster related losses. This area includes counties contiguous to those counties declared or designated as disaster areas.

Disaster set-aside is the deferral of payment of an annual loan installment to the Agency to the end of the loan term in accordance with part 766, subpart B of this chapter.

Disaster yield is the per-acre yield of an agricultural commodity for the operation during the production cycle when the disaster occurred.

Down payment loan is a type of FO loan made to beginning farmers and socially disadvantaged farmers to finance a portion of a real estate purchase under part 764, subpart E of this chapter.

Economic Emergency loan is a loan that was made or guaranteed to an eligible applicant to allow for continuation of the operation during an economic emergency which was caused by a lack of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities. EE loans are not currently funded; however, such outstanding loans are serviced by the Agency or the lender in the case of a guaranteed EE loan.

Embedded entity means an entity that has a direct or indirect interest, as a stockholder, member, beneficiary, or otherwise, in another entity.

Emergency loan is a loan made to eligible applicants who have incurred substantial financial losses from a disaster.

Entity means a corporation, partnership, joint operation, cooperative, limited liability company, trust, or other legal business organization, as determined by the Agency, that is authorized to conduct business in the state in which the organization operates. Organizations operating as non-profit entities under Internal Revenue Code 501 (26 U.S.C. 501) and estates are not considered eligible entities for Farm Loan Programs purposes.

Entity member means all individuals and all embedded entities, as well as the individual members of the embedded entities, having an ownership interest in the assets of the entity.

Equitable relief means waiving a requirement for Direct Farm Ownership, Direct Farm Operating, or Direct Emergency loans when the borrower is not in compliance with loan program requirements, but acted in good faith

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and relied on a material action, advice, or non-action from an Agency official to the detriment of the borrower's operation.

Essential family living and farm operating expenses:

(1) Are those that are basic, crucial or indispensable.

(2) Are determined by the Agency based on the following considerations:

(i) The specific borrower's operation;

(ii) What is typical for that type of operation in the area; and

(iii) What is an efficient method of production considering the borrower's resources.

(3) Include, but are not limited to, essential: Household operating expenses; food, including lunches; clothing and personal care; health and medical expenses, including medical insurance; house repair and sanitation; school and religious expenses; transportation; hired labor; machinery repair; farm building and fence repair; interest on loans and credit or purchase agreement; rent on equipment, land, and buildings; feed for animals; seed, fertilizer, pesticides, herbicides, spray materials and other necessary farm supplies; livestock expenses, including medical supplies, artificial insemination, and veterinarian bills; machinery hire; fuel and oil; taxes; water charges; personal, property and crop insurance; auto and truck expenses; and utility payments.

Established farmer means a farmer who operates the farm (in the case of an entity, its members as a group) who meets all of the following conditions:

(1) Actively participated in the operation and the management, including, but not limited to, exercising control over, making decisions regarding, and establishing the direction of, the farming operation at the time of the disaster;

(2) Spends a substantial portion of time in carrying out the farming operation;

(3) Planted the crop, or purchased or produced the livestock on the farming operation;

(4) In the case of an entity, is primarily engaged in farming and has over 50 percent of its gross income from all sources from its farming operation based on the operation's pro-

jected cash flow for the next crop year or the next 12-month period, as mutually determined;

(5) Is not an integrated livestock, poultry, or fish processor who operates primarily and directly as a commercial business through contracts or business arrangements with farmers, except a grower under contract with an integrator or processor may be considered an established farmer, provided the farming operation is not managed by an outside full-time manager or management service and Agency loans will be based on the applicant's share of the agricultural production as specified in the contract; and

(6) Does not employ a full time farm manager.

EZ Guarantee means a type of OL or FO of \$100,000 or less made using a simplified loan application. As part of the simplified application process, EZ Guarantees are processed using a streamlined underwriting method to determine financial feasibility.

False information is information provided by an applicant, borrower or other source to the Agency that the applicant or borrower knows to be incorrect.

Family farm is a business operation that:

(1) Produces agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence;

(2) Has both physical labor and management provided as follows:

(i) The majority of day-to-day, operational decisions, and all strategic management decisions are made by:

(A) The borrower, with input and assistance allowed from persons who are either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or

(B) The members responsible for operating the farm, in the case of an entity.

(ii) A substantial amount of labor to operate the farm is provided by:

(A) The borrower, with input and assistance allowed from persons who are either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or

(B) The members responsible for operating the farm, in the case of an entity.

(3) May use full-time hired labor in amounts only to supplement family labor.

(4) May use reasonable amounts of temporary labor for seasonal peak workload periods or intermittently for labor intensive activities.

Family living expenses are the costs of providing for the needs of family members and those for whom the borrower has a financial obligation, such as alimony, child support, and care expenses of an elderly parent.

Family members are the immediate members of the family residing in the same household with the borrower.

Farm is a tract or tracts of land, improvements, and other appurtenances that are used or will be used in the production of crops, livestock, or aquaculture products for sale in sufficient quantities so that the property is recognized as a farm rather than a rural residence. The term "farm" also includes the term "ranch." It may also include land and improvements and facilities used in a non-eligible enterprise or the residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.

Farmer is an individual, corporation, partnership, joint operation, cooperative, trust, or limited liability company that is the operator of a farm.

Farm income is the proceeds from the sale of agricultural commodities that are normally sold annually during the regular course of business, such as crops, feeder livestock, and other farm products.

Farm Loan Programs are Agency programs to make, guarantee, and service loans to family farmers authorized under the Act or Agency regulations.

Farm Ownership loan is a loan made to eligible applicants to purchase, enlarge, or make capital improvements to family farms, or to promote soil and water conservation and protection. It also includes the Downpayment loan.

Farm Program payments are benefits received from FSA for any commodity, disaster, or cost share program.

Feasible plan is when an applicant or borrower's cash flow budget or farm op-

erating plan indicates that there is sufficient cash inflow to pay all cash outflow. If a loan approval or servicing action exceeds one production cycle and the planned cash flow budget or farm operating plan is atypical due to cash or inventory on hand, new enterprises, carryover debt, atypical planned purchases, important operating changes, or other reasons, a cash flow budget or farm operating plan must be prepared that reflects a typical cycle. If the request is for only one cycle, a feasible plan for only one production cycle is required for approval.

Financially distressed borrower is a borrower unable to develop a feasible plan for the current or next production cycle.

Financially viable operation, for the purposes of considering a waiver of OL term limits under § 764.252 of this chapter, is a farming operation that, with Agency assistance, is projected to improve its financial condition over a period of time to the point that the operator can obtain commercial credit without further Agency assistance. Such an operation must generate sufficient income to:

- (1) Meet annual operating expenses and debt payments as they become due;
- (2) Meet essential family living expenses to the extent they are not met by dependable non-farm income;
- (3) Provide for replacement of capital items; and
- (4) Provide for long-term financial growth.

Fixture is an item of personal property attached to real estate in such a way that it cannot be removed without defacing or dismantling the structure, or damaging the item itself.

Floodplains are lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. The base floodplain is used to designate the 100-year floodplain (one percent chance floodplain). The critical floodplain is defined as the 500-year floodplain (0.2 percent chance floodplain).

Foreclosed is the completed act of selling security either under the power

of sale in the security instrument or through judicial proceedings.

Foreclosure sale is the act of selling security either under the power of sale in the security instrument or through judicial proceedings.

Forest Stewardship Management Plan means a property-specific, long-term, multi-resource plan that addresses private landowner objectives while recommending a set and schedule of management practices designed to achieve a desired future forest condition developed and approved through the USDA Forest Service or its agent.

Good faith is when an applicant or borrower provides current, complete, and truthful information when applying for assistance and in all past dealings with the Agency, and adheres to all written agreements with the Agency including, but not limited to, loan agreement, security instruments, farm operating plans, and agreements for use of proceeds. The Agency considers a borrower to act in good faith, however, if the borrower's inability to adhere to all agreements is due to circumstances beyond the borrower's control. In addition, the Agency will consider fraud, waste, or conversion actions, when substantiated by a legal opinion from OGC, when determining if an applicant or borrower has acted in good faith.

Graduation means the payment in full of all direct FLP loans, except for CLs, made for operating, real estate, or both purposes by refinancing with other credit sources either with or without an Agency guarantee.

Guaranteed loan is a loan made and serviced by a lender for which the Agency has entered into a Lender's Agreement and for which the Agency has issued a Loan Guarantee. This term also includes guaranteed lines of credit except where otherwise indicated.

Guarantor is a party not included in the farming operation who assumes responsibility for repayment in the event of default.

Hazard insurance is insurance covering fire, windstorm, lightning, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, builder's risk, public liability, property damage, flood or mudslide, workers compensation, or

any similar insurance that is available and needed to protect the Agency security or that is required by law.

Hearing official. For the purposes of salary offset, the hearing official is an Administrative Law Judge of the USDA or another individual not under the supervision or control of the USDA. For the purposes of administrative wage garnishment, the hearing official is selected pursuant to part 3, subpart E of this title.

Heirs' property means a farm that is jointly held by multiple heirs as tenants in common as a result of inheriting title from a relative.

Highly erodible land is land as determined by Natural Resources Conservation Service to meet the requirements provided in section 1201 of the Food Security Act of 1985.

Holder is a person or organization other than the lender that holds all or a part of the guaranteed portion of an Agency guaranteed loan but has no servicing responsibilities. When the lender assigns a part of the guaranteed loan by executing an Agency assignment form, the assignee becomes a holder.

Homestead protection is the previous owner's right to lease with an option to purchase the principal residence and up to 10 acres of adjoining land which secured an FLP direct loan.

Homestead protection property is the principal residence that secured an FLP direct loan and is subject to homestead protection.

Household contents are essential household items necessary to maintain viable living quarters. Household contents exclude all luxury items such as jewelry, furs, antiques, paintings, etc.

HPRP loan agreement means the signed agreement between FSA and the intermediary that specifies the terms and conditions of the HPRP loan.

HPRP loan funds means cash proceeds of a loan obtained through HPRP, including the portion of an HPRP revolving loan fund directly provided by the HPRP loan as well as the proceeds advanced to an ultimate recipient. HPRP loan funds are Federal funds.

HPRP revolving loan fund means a group of assets, obtained through or related to an HPRP loan and recorded by

the intermediary in a bookkeeping account or set of accounts and accounted for, along with related liabilities, revenues, and expenses, as an entity or enterprise separate from the intermediary's other assets and financial activities.

Inaccurate information is incorrect information provided by an applicant, borrower, lender, or other source without the intent of fraudulently obtaining benefits.

Indian reservation is all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a Federally recognized Indian Tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a Federally recognized Indian Tribe.

In-house expenses are expenses associated with credit management and loan servicing by the lender and the lender's contractor. In-house expenses include, but are not limited to, employee salaries, staff lawyers, travel, supplies, and overhead.

Interest Assistance Agreement is the appropriate Agency form executed by the Agency and the lender containing the terms and conditions under which the Agency will make interest assistance payments to the lender on behalf of the guaranteed loan borrower.

Intermediary means the entity requesting or receiving HPRP loan funds for establishing a revolving loan fund and relending to ultimate recipients.

Inventory property is real estate or chattel property and related rights that formerly secured an FLP loan and to which the Federal Government has acquired title.

Joint financing arrangement is an arrangement in which two or more lenders make separate loans simultaneously to supply the funds required by one applicant.

Joint operation is an operation run by individuals who have agreed to operate a farm or farms together as an entity, sharing equally or unequally land,

labor, equipment, expenses, or income, or some combination of these items. The real and personal property is owned separately or jointly by the individuals.

Land contract is an installment contract executed between a buyer and a seller for the sale of real property, in which complete fee title ownership of the property is not transferred until all payments under the contract have been made.

Leasehold is a right to use farm property for a specific period of time under conditions provided for in a lease agreement.

Lender is the organization making and servicing a loan, or advancing and servicing a line of credit that is guaranteed by the Agency. The lender is also the party requesting a guarantee.

Lender's Agreement is the appropriate Agency form executed by the Agency and the lender setting forth their loan responsibilities when the Loan Guarantee is issued.

Lien is a legally enforceable claim against real or chattel property of another obtained as security for the repayment of indebtedness or an encumbrance on property to enforce payment of an obligation.

Limited resource interest rate is an interest rate normally below the Agency's regular interest rate, which is available to applicants unable to develop a feasible plan at regular rates and are requesting:

- (1) FO or OL loan assistance under part 764 of this title; or
- (2) Primary loan servicing on an FO, OL, or SW loan under part 766 of this title.

Line of Credit Agreement is a contract between the borrower and the lender that contains certain lender and borrower conditions, limitations, and responsibilities for credit extension and acceptance where loan principal balance may fluctuate throughout the term of the contract.

Liquidation is the act of selling security for recovery of amounts owed to the Agency or lender.

Liquidation expenses are the costs of an appraisal, due diligence evaluation, environmental assessment, outside attorney fees, and other costs incurred as

a direct result of liquidating the security for a direct or guaranteed loan. Liquidation expenses do not include internal Agency expenses for a direct loan or in-house expenses for a guaranteed loan.

Livestock is a member of the animal kingdom, or product thereof, as determined by the Agency.

Loan Agreement is a contract between the borrower and the lender that contains certain lender and borrower agreements, conditions, limitations, and responsibilities for credit extension and acceptance.

Loan servicing programs include any primary loan servicing program, conservation contract, current market value buyout, and homestead protection.

Loan transaction is any loan approval or servicing action.

Loss claim is a request made to the Agency by a lender to receive a reimbursement based on a percentage of the lender's loss on a loan covered by an Agency guarantee.

Loss rate is the net amount of loan loss claims paid on FSA guaranteed loans made in the previous 7 years divided by the total loan amount of all such loans guaranteed during the same period.

Major deficiency is a deficiency that directly affects the soundness of the loan.

Majority interest is more than a 50 percent interest in an entity held by an individual or group of individuals.

Market value is the amount that an informed and willing buyer would pay an informed and willing, but not forced, seller in a completely voluntary sale.

Microloan means a type of OL or FO of \$50,000 or less made using a reduced loan application. Direct MLs are made under modified eligibility and security requirements.

Mineral right is an ownership interest in minerals in land, with or without ownership of the surface of the land.

Minor deficiency is a deficiency that violates Agency regulations, but does not affect the soundness of the loan.

Mortgage is a legal instrument giving the lender a security interest or lien on real or personal property of any kind. The term "mortgage" also includes the

terms "deed of trust" and "security agreement."

Natural disaster is unusual and adverse weather conditions or natural phenomena that have substantially affected farmers by causing severe physical or production, or both, losses.

Negligent servicing is servicing that fails to include those actions that are considered normal industry standards of loan management or comply with the lender's agreement or the guarantee. Negligent servicing includes failure to act or failure to act in a timely manner consistent with actions of a reasonable lender in loan making, servicing, and collection.

Negotiated sale is a sale in which there is a bargaining of price or terms, or both.

Net recovery value of security is the market value of the security property, assuming that the lender in the case of a guaranteed loan, or the Agency in the case of a direct loan, will acquire the property and sell it for its highest and best use, less the lender's or the Agency's costs of property acquisition, retention, maintenance, and liquidation.

Net recovery value of non-essential assets is the appraised market value of the non-essential assets less any prior liens and any selling costs that may include such items as taxes due, commissions, and advertising costs. However, no deduction is made for maintenance of the property while in inventory.

Non-capitalized interest is accrued interest on a loan that was not reclassified as principal at the time of restructuring. Between October 10, 1988, and November 27, 1990, the Agency did not capitalize interest that was less than 90 days past due when restructuring a direct loan.

Non-eligible enterprise is a business that meets the criteria in any one of the following categories:

(1) Produces exotic animals, birds, or aquatic organisms or their products which may be agricultural in nature, but are not normally associated with agricultural production, e.g., there is no established or stable market for them or production is speculative in nature.

(2) Produces non-farm animals, birds, or aquatic organisms ordinarily used

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for pets, companionship, or pleasure and not typically associated with human consumption, fiber, or draft use.

(3) Markets non-farm goods or provides services which might be agriculturally related, but are not produced by the farming operation.

(4) Processes or markets farm products when the majority of the commodities processed or marketed are not produced by the farming operation.

Non-essential assets are assets in which the borrower has an ownership interest, that:

(1) Do not contribute to:

(i) Income to pay essential family living expenses, or

(ii) The farming operation; and

(2) Are not exempt from judgment creditors or in a bankruptcy action.

Non-monetary default means a situation where a borrower is not in compliance with the covenants or requirements of the loan documents, program requirements, or loan.

Non-program loan is a loan on terms more stringent than terms for a program loan that is an extension of credit for the convenience of the Agency, because the applicant does not qualify for program assistance or the property to be financed is not suited for program purposes. Such loans are made or continued only when it is in the best interest of the Agency.

Normal income security is all security not considered basic security, including crops, livestock, poultry products, other property covered by Agency liens that is sold in conjunction with the operation of a farm or other business, and FSA Farm Program payments.

Normal production yield as used in 7 CFR part 764 for EM loans, is:

(1) The per acre actual production history of the crops produced by the farming operation used to determine Federal crop insurance payments or payment under the Noninsured Crop Disaster Assistance Program for the production year during which the disaster occurred;

(2) The applicant's own production records, or the records of production on which FSA Farm Program payments are made contained in the applicant's Farm Program file, if available, for the previous 3 years, when the actual pro-

duction history in paragraph (1) of this definition is not available;

(3) The county average production yield, when the production records outlined in paragraphs (1) and (2) of this definition are not available.

Operating loan is a loan made to an eligible applicant to assist with the financial costs of operating a farm. The term also includes a Youth loan.

Operator is the individual or entity that provides the labor, management, and capital to operate the farm. The operator can be either an owner-operator or tenant-operator. Under applicable State law, an entity may have to receive authorization from the State in which the farm is located to be the owner and/or operator of the farm. Operating-only entities may be considered owner-operators when the individuals who own the farm real estate own at least 50 percent of the family farm operation.

Participated in the business operations of a farm requires that an applicant has:

(1) Been the owner, manager or operator of a farming operation for the year's complete production cycle as evidenced by tax returns, FSA farm records or similar documentation;

(2) Been employed as a farm manager or farm management consultant for the year's complete production cycle; or

(3) Participated in the operation of a farm by virtue of being raised on a farm or having worked on a farm (which can include a farm-related apprenticeship, internship, or similar educational program with applied work experience) with significant responsibility for the day-to-day decisions for the year's complete production cycle, which may include selection of seed varieties, weed control programs, input suppliers, or livestock feeding programs or decisions to replace or repair equipment.

Partnership is any entity consisting of two or more individuals who have agreed to operate a farm as one business unit. The entity must be recognized as a partnership by the laws of the State in which the partnership will operate a farm. It also must be authorized to own both real and personal

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property and to incur debt in its own name.

Past due is when a payment is not made by the due date.

Physical loss is verifiable damage or destruction with respect to real estate or chattel, excluding annual growing crops.

Potential liquidation value is the amount of a lender's protective bid at a foreclosure sale. Potential liquidation value is determined by an independent appraiser using comparables from other forced liquidation sales.

Present value is the present worth of a future stream of payments discounted to the current date.

Presidentially-designated emergency is a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).

Primary loan servicing programs include:

- (1) Loan consolidation and rescheduling, or reamortization;
- (2) Interest rate reduction, including use of the limited resource rate program;
- (3) Deferral;
- (4) Write-down of the principal or accumulated interest; or
- (5) Any combination of paragraphs (1) through (4) of this definition.

Production cycle is the time it takes to produce an agricultural commodity from the beginning of the production process until it is normally disposed of or sold.

Production loss is verifiable damage or destruction with respect to annual growing crops.

Program loans include CL, FO, OL, and EM. In addition, for loan servicing purposes the term includes existing loans for the following programs no longer funded: SW, RL, EE, ST, and RHF.

Promissory note is a written agreement to pay a specified sum on demand or at a specified time to the party designated. The terms "promissory note" and "note" are interchangeable.

Prospectus consists of a transmittal letter, a current balance sheet and projected year's budget which is sent to commercial lenders to determine their interest in financing or refinancing

specific Agency direct loan applicants and borrowers.

Protective advance is an advance made by the Agency or a lender to protect or preserve the collateral from loss or deterioration.

Quarantine is a quarantine imposed by the Secretary under the Plant Protection Act or animal quarantine laws (as defined in section 2509 of the Food, Agriculture, Conservation and Trade Act of 1990).

Reamortization is the rewriting of rates or terms, or both, of a loan made for real estate purposes.

Reasonable rates and terms are those commercial rates and terms that other farmers are expected to meet when borrowing from a commercial lender or private source for a similar purpose and similar period of time. The "similar period of time" of available commercial loans will be measured against, but need not be the same as, the remaining or original term of the loan.

Recoverable cost is a loan cost expense chargeable to either a borrower or property account.

Recreation loan is a loan that was made to eligible applicants to assist in the conversion of all or a portion of the farm they owned or operated to outdoor income producing recreation enterprises to supplement or supplant farm income. RL's are no longer funded, however, such outstanding loans are serviced by the Agency.

Redemption right is a Federal or state right to reclaim property for a period of time established by law, by paying the amount paid at the involuntary sale plus accrued interest and costs.

Related by blood or marriage is being connected to one another as husband, wife, parent, child, brother, sister, uncle, aunt, or grandparent.

Relative is the spouse and anyone having one of the following relationships to an applicant or borrower: parent, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, uncle, aunt, nephew, niece, cousin, grandparent, grandson, granddaughter, or the spouses of the foregoing.

Repossessed property is security property in the Agency's custody.

Rescheduling is the rewriting of the rates or terms, or both, of a loan made for operating purposes.

Restructuring is changing the terms of a debt through rescheduling, re-amortization, deferral, writedown, or a combination thereof.

Revolved funds means the cash portion of an HPRP revolving loan fund that is not composed of HPRP loan funds, including funds that are repayments of HPRP loans and including fees and interest collected on such loans.

Rural youth is a person who has reached the age of 10 but has not reached the age of 21 and resides in a rural area or any city or town with a population of 50,000 or fewer people.

Security is property or right of any kind that is subject to a real or personal property lien. Any reference to "collateral" or "security property" will be considered a reference to the term "security."

Security instrument includes any document giving the Agency a security interest on real or personal property.

Security value is the market value of real estate or chattel property (less the value of any prior liens) used as security for an Agency loan.

Shared Appreciation Agreement is an agreement between the Agency, or a lender in the case of a guaranteed loan, and a borrower on the appropriate Agency form that requires the borrower who has received a writedown on a direct or guaranteed loan to repay the Agency or the lender some or all of the writedown received, based on a percentage of any increase in the value of the real estate securing an SAA at a future date.

Socially disadvantaged applicant or farmer is an individual or entity who is a member of a socially disadvantaged group. For an entity, the majority interest must be held by socially disadvantaged individuals. For married couples, the socially disadvantaged individual must have at least 50 percent ownership in the farm business and make most of the management decisions, contribute a significant amount of labor, and generally be recognized as the operator of the farm.

Socially disadvantaged group is a group whose members have been sub-

ject to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. These groups consist of: American Indians or Alaskan Natives, Asians, Blacks or African Americans, Native Hawaiians or other Pacific Islanders, Hispanics, and women.

Softwood Timber Program loan was available to eligible financially distressed borrowers who would take marginal land, including highly erodible land, out of production of agricultural commodities other than the production of softwood timber. ST loans are no longer available, however, such outstanding loans are serviced by the Agency.

Soil and Water loan is a loan that was made to an eligible applicant to encourage and facilitate the improvement, protection, and proper use of farmland by providing financing for soil conservation, water development, conservation, and use; forestation; drainage of farmland; the establishment and improvement of permanent pasture; pollution abatement and control; and other related measures consistent with all Federal, State and local environmental standards. SW loans are no longer funded, however, such outstanding loans are serviced by the Agency.

Streamlined Conservation Loan means a direct or guaranteed CL made to eligible applicants based on reduced documentation.

Subordination is a creditor's temporary relinquishment of all or a portion of its lien priority to another party providing the other party with a priority lien on the collateral.

Subsequent loan is any FLP loan processed by the Agency after an initial loan of the same type has been made to the same borrower.

Succession plan means a general plan to address the continuation of the farm, which may include specific intra-family succession agreements or strategies to address business asset transfer planning to create opportunities for farmers and ranchers.

Supervised bank account is an account with a financial institution established through a deposit agreement entered

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into between the borrower, the Agency, and the financial institution.

Technical appraisal review is a review of an appraisal to determine if such appraisal meets the requirements of USPAP pursuant to standard 3 of USPAP.

Transfer and assumption is the conveyance by a debtor to an assuming party of the assets, collateral, and liabilities of a loan in return for the assuming party's binding promise to pay the debt outstanding or the market value of the collateral.

Trust is an entity that under applicable state law meets the criteria of being a trust of any kind but does not meet the criteria of being a farm cooperative, private domestic corporation, partnership, or joint operation.

Ultimate recipient means an entity or individual that receives a loan from an intermediaries' HPRP revolving loan fund.

Unaccounted for security is security for a direct or guaranteed loan that was misplaced, stolen, sold, or otherwise missing, where replacement security was not obtained or the proceeds from its sale have not been applied to the loan.

Unauthorized assistance is any loan, loan servicing action, lower interest rate, loan guarantee, or subsidy received by a borrower, or lender, for which the borrower or lender was not eligible, which was not made in accordance with all Agency procedures and requirements, or which the Agency obligated from the wrong appropriation or fund. Unauthorized assistance may result from borrower, lender, or Agency error.

Undivided ownership interest means a common interest in the whole parcel of land that is owned by two or more people. Undivided ownership interest does not include those who own a specific piece of a parcel of land; rather they own a percentage interest in a parcel of land as a whole.

Uniform Standards of Professional Appraisal Practice are standards governing the preparation, reporting, and reviewing of appraisals established by the Appraisal Foundation pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

United States is any of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Republic of Palau, Federated States of Micronesia, and the Republic of the Marshall Islands.

U. S. Attorney is an attorney for the United States Department of Justice.

Veteran is any person who served in the military, naval, or air service during any war as defined in section 101(12) of title 38, United States Code.

Veteran farmer is a farmer who has served in the Armed Forces (as defined in 38 U.S.C. 101(10)) and who—

- (i) Has not operated a farm;
- (ii) Has operated a farm for not more than 10 years; or
- (iii) Is a veteran who served in the active military, naval, or air service, and who was discharged or released from that service under conditions other than dishonorable and who first obtained status as a veteran during the most recent 10-year period.

Wetlands are those lands or areas of land as determined by the Natural Resources Conservation Service to meet the requirements provided in section 1201 of the Food Security Act of 1985.

Working capital is cash available to conduct normal daily operations including, but not limited to, paying for feed, seed, fertilizer, pesticides, farm supplies, cooperative stock, and cash rent.

Youth loan is an operating type loan made to an eligible rural youth applicant to finance a modest income-producing agricultural project.

[72 FR 63285, Nov. 8, 2007; 72 FR 74153, Dec. 31, 2007, as amended at 73 FR 74344, Dec. 8, 2008; 75 FR 54012, Sept. 3, 2010; 76 FR 75430, Dec. 2, 2011; 77 FR 15938, May 18, 2012; 78 FR 3834, Jan. 16, 2013; 78 FR 14005, Mar. 4, 2013; 78 FR 65529, Nov. 1, 2013; 79 FR 60743, Oct. 8, 2014; 79 FR 78693, Dec. 31, 2014; 80 FR 74970, Dec. 1, 2015; 81 FR 3292, Jan. 21, 2016; 81 FR 72690, Oct. 21, 2016; 85 FR 36691, June 17, 2020; 86 FR 43390, Aug. 9, 2021; 87 FR 13123, Mar. 9, 2022]

§761.3 Civil rights.

Part 15d of this title contains applicable regulations pertaining to civil rights and filing of discrimination complaints by program participants.