

**Subpart A—Overview****§ 766.1 Introduction.**

(a) This part describes the Agency's servicing policies for direct loan borrowers who:

- (1) Are financially distressed;
- (2) Are delinquent in paying direct loans or otherwise in default;
- (3) Have received unauthorized assistance;
- (4) Have filed bankruptcy or are involved in other civil or criminal cases affecting the Agency; or
- (5) Have loan security being liquidated voluntarily or involuntarily.

(b) The Agency services direct FLP loans under the policies contained in this part.

(1) Youth loans:

- (i) May not receive Disaster Set-Aside under subpart B of this part;
- (ii) Will only be considered for rescheduling according to § 766.107 and deferral according to § 766.109.

(2) The Agency does not service Non-program loans under this part except where noted.

(c) The Agency requires the borrower to make every reasonable attempt to make payments and comply with loan agreements before the Agency considers special servicing.

**§ 766.2 Abbreviations and definitions.**

Abbreviations and definitions for terms used in this part are provided in § 761.2 of this chapter.

**§§ 766.3–766.50 [Reserved]****Subpart B—Disaster Set-Aside****§ 766.51 General.**

(a) DSA is available to borrowers with program loans who suffered losses as a result of a natural disaster.

(b) DSA is not intended to circumvent other servicing available under this part.

(c) Non-program loans may be serviced under this subpart for borrowers who also have program loans.

**§ 766.52 Eligibility.**

(a) *Borrower eligibility.* The borrower must meet all of the following requirements to be eligible for a DSA:

(1) The borrower must have operated the farm in a county designated or declared a disaster area or a contiguous county at the time of the disaster. Farmers who have rented out their land base for cash are not operating the farm.

(2) The borrower must have acted in good faith, and the borrower's inability to make the upcoming scheduled loan payments must be for reasons not within the borrower's control.

(3) The borrower cannot have more than one installment set aside on each loan.

(4) As a direct result of the natural disaster, the borrower does not have sufficient income available to pay all family living and farm operating expenses, other creditors, and debts to the Agency. This determination will be based on:

- (i) The borrower's actual production, income and expense records for the year the natural disaster occurred;
- (ii) Any other records required by the Agency;
- (iii) Compensation received for losses; and
- (iv) Increased expenses incurred because of the natural disaster.

(5) For the next production cycle, the borrower must develop a feasible plan showing that the borrower will at least be able to pay all operating expenses and taxes due during the year, essential family living expenses, and meet scheduled payments on all debts, including FLP debts. The borrower must provide any documentation required to support the farm operating plan.

(6) The borrower must not be in non-monetary default.

(7) The borrower must not be ineligible due to disqualification resulting from Federal crop insurance violation according to 7 CFR part 718.

(8) The borrower must not become 165 days past due before the appropriate Agency DSA documents are executed.

(b) *Loan eligibility.* (1) Any FLP loan to be considered for DSA must have been outstanding at the time the natural disaster occurred.

(2) All of the borrower's program and non-program loans must be current after the Agency completes a DSA of the scheduled installment.