Consolidated Farm Services Agency, USDA.

(h) *Limited coverage*—A plan of insurance offering coverage that is equal to or greater than fifty percent (50%) of the approved yield indemnified at one hundred percent (100%) of the expected market price, or a comparable coverage as established by FCIC, but less than sixty-five percent (65%) of the approved yield indemnified at one hundred percent (100%) of the expected market price, or a comparable coverage as established by FCIC.

(i) Limited resource farmer—A producer or operator of a small or family farm, including a new producer or operator, with an annual gross income of less than \$20,000 derived from all sources of revenue for each of the prior two years and who demonstrates a need to maximize farm income. Notwithstanding the preceding sentence, a producer on a farm of less than 25 acres aggregated for all crops, where the producer derives a majority of the producer's gross income from the farm, but the producer's gross income from farming operations does not exceed \$20,000, will be considered a limited resource farmer.

(j) *Person*—An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a state or a political subdivision or agency of a state.

(k) *Secretary*—The Secretary of the United States Department of Agriculture.

§400.652 Insurance availability.

(a) If sufficient actuarial data are available FCIC will offer catastrophic risk protection, limited, and additional coverage plans of insurance to indemnify persons for FCIC insured or reinsured crop loss due to loss of yield or prevented planting, if the crop loss or prevented planting is due to an insured cause of loss specified in the applicable crop insurance policy.

(b) Catastrophic risk protection coverage will be offered through approved insurance providers and through local offices of the Consolidated Farm Service Agency, USDA. Limited and additional coverage will only be offered through approved insurance providers unless approved insurance providers are not available.

(c) To obtain catastrophic risk protection coverage on a crop, a person must obtain catastrophic risk protection coverage for the crop on all insurable acreage in the county. Catastrophic risk protection coverage must be obtained on or before the sales closing date designated by FCIC for the crop in the county.

(d) Effective for the 1995 crop year only, and only for catastrophic risk protection, notwithstanding any provision in any crop insurance policy, reinsured by FCIC, the sales closing dates will be as follows:

(1) For those crops for which insurance attached before January 1, 1995, the sales closing date will be the latest sales closing date for spring planted crops in the county as long as such sales closing date is not later than April 12, 1995;

(2) For those crops for which insurance attached after January 1, 1995, and have a sales closing date prior to February 15, 1995, the sales closing date will be February 15, 1995; and

(3) For all other spring planted crops, the sales closing date will remain as specified in the policy.

(e) For limited and additional coverage, in areas where insurance is not available for a particular agricultural commodity, FCIC may offer to enter into a written agreement with a person to insure the commodity, if the person has actuarially sound data relating to the production of the commodity that is acceptable to FCIC and if such written agreement is specifically allowed by the crop insurance regulations applicable to the crop.

(f) A person who made timely purchase of a crop insurance policy on a 1995 or subsequent crop before October 13, 1994, the date of enactment of the Federal Crop Insurance Reform Act of 1994, may continue with the purchased policy under the terms and conditions of that policy but will receive whatever benefits would be available under that policy if it had been purchased subsequent to the date of enactment. However, if the level of coverage is less than the coverage under the catastrophic risk protection coverage, the insured must either upgrade that coverage to at least catastrophic risk protection coverage or lose eligibility for certain farm program benefits as set out in § 400.656.

§400.653 Application and acreage report.

(a) To participate in catastrophic risk protection, limited, or additional coverage plans of insurance, a person must submit an application for insurance on or before the applicable sales closing date.

(b) In order to remain eligible for certain farm programs, as set out in § 400.656, a producer must obtain at least catastrophic risk protection coverage on all crops of economic significance if catastrophic risk protection is available. Notwithstanding

the requirement contained in § 400.653 (a), if the insured is not able to plant a crop for which coverage has been obtained, FCIC may, at its discretion, determine that conditions exist that would permit the person to insure alternative crops to those specified on the application. If FCIC determines that such conditions exist, the insured may insure the alternative crops by making application for catastrophic risk protection coverage on the alternative crops after the sales closing date but before the acreage reporting date for the alternative crops and paying the appropriate administrative fee. Limited or additional coverage is not available after the sales closing date.

(c) For catastrophic risk protection, limited, and additional coverage, FCIC may allow the insured to certify the insured's actual production history ("APH") yield. If FCIC permits certification of the APH yield by the insured, the insured must, at the request of FCIC or the approved insurance provider, provide verifiable records of acreage and production acceptable to FCIC for the years for which production and acreage were certified. If FCIC or the approved insurance provider determine that inadequate records exist to substantiate the certified yield, FCIC will, in addition to any civil fraud or criminal penalties which may exist for false certification, recalculate the APH yield using assigned yields for the crop years represented by the inadequate records.

(d) For all coverages including catastrophic risk protection, limited, and additional coverages, the insured must file a signed acreage report on or before the acreage reporting date.

§ 400.654 Coverage provided.

(a) The specific causes of loss insured against are designated in the crop insurance policy for the applicable crop.

(b) An indemnity paid to a producer may be reduced to reflect out-of-pocket expenses that were not incurred by the producer as a result of not planting, caring for, or harvesting the crop.

(c) Catastrophic risk protection.

(1) A person who is eligible to receive an indemnity under a catastrophic risk protection plan of insurance and is also eligible to receive benefits for the same loss under other USDA programs must elect the program from which they wish to receive benefits. Only one payment or program benefit will be allowed.

(2) Catastrophic risk protection must be elected on a crop basis unless the Catastrophic Risk Protection Endorsement allows individual crop types or varieties to be considered separate crops. However, any acreage of