§ 700.21 Eligible person (participant).

(a) Any land owner or operator whose land or activities in a project area is contributing to the area's agricultural nonpoint source water quality problems and who has an approved water quality plan is eligible to enter into an RCWP contract. For the purpose of this section, an eligible person is an individual, partnership, corporation (except corporations whose stock is publicly traded), Indian tribe, irrigation district or other entity.

(b) Federal, State or local governments, or subdivisions thereof (except irrigation districts), are not considered as an eligible person for RCWP contracts.

(c) This program will be conducted in compliance with all requirements respecting nondiscrimination as contained in the Civil Rights Act of 1964 and amendments thereto and the Regulations of the Secretary of Agriculture (7 CFR 15.1 through 15.12)

[45 FR 14009, Mar. 4, 1980, as amended at 46 FR 29454, June 2, 1981]

§ 700.22 Application for assistance.

(a) Land owners or operators in an approved project area must apply for RCWP assistance through the office of the County ASC Committee(s) by completing the prescribed application form.

(b) The priority for developing water quality plans among applicants is to be determined by the County ASC Committee and the soil conservation district based on the criteria developed by the LCC in consultation with the SCC, with technical assistance from SCS.

§ 700.23 Water quality plan.

(a) The participant's water quality plan, developed with technical assistance and certification by the SCS or its designee and approved by the CD, is to include appropriate approved BMPs. Such BMPs must reduce the amount of pollutants that enter a stream, aquifer, or lake by:

(1) Methods such as reducing the application rates or changing the application methods or potential pollutants.

(2) Methods such as practices or combinations of practices which prevent potential pollutants from leaving source areas or reduce the amount of potential pollutants that reach a stream or lake after leaving a source area.

(b) Participants' water quality plans shall include BMPs for the treatment of all critical areas or sources on the farm on that land within the project area regardless of eligibility for cost-sharing with RCWP funds. Management type BMPs which are not cost-shared but for which technical advice will be given project participants shall be listed in the plan. A water quality plan is not required for that portion of a farm that does not include a critical area or source.

(c) The participant is responsible for compliance with all applicable Federal, State, and local laws including those relating to the environment, in installing BMPs to solve the nonpoint source water quality problems.

(d) Time schedules for implementing BMPs are to be provided in the participant's water quality plan.

(e) The SCS or its designee shall make an annual status review to assure the technical adequacy of the implementation of the water quality plan.

§ 700.24 Cost-sharing.

(a) The maximum cost-share for each project will be approved by the Secretary, taking into consideration the recommendation of the NCC. The Federal cost-share for each BMP shall not exceed 75 percent of the cost of carrying out the practice unless otherwise approved by the Administrator, FSA.

(b) The combined cost-sharing by Federal, State, or Subdivision thereof shall not exceed 100% of the cost of carrying out the BMP.

(c) The County ASC Committee(s) in consultation with the LCC will annually set maximum individual BMP cost-share rates for the project area.

(d) BMPs to be cost shared must have a positive effect on water quality.

(e) Cost sharing is not to be made available for measures installed primarily for:

(1) Bringing additional land into crop production.

(2) Increasing production on existing crop land.

(3) Flood protection.

(4) Structural measures authorized for installation under Pub. L. 83–566, Watershed Protection and Flood Prevention Act.

[45 FR 14009, Mar. 4, 1980, as amended at 46 FR 29454, June 2, 1981]

§ 700.25 RCWP contract.

(a) In order to participate in the RCWP, each landowner, operator, or person who controls or shares in the control of a tract of land on which one or more of the BMP's will be performed must execute the RCWP contract in which they agree to carry out the water quality plan.

(b) The participant must furnish satisfactory evidence of his or her control of the tract of land on which one or more of the BMP's will be performed.

(c) Cost-sharing payments cannot be provided for any measure that is initiated before the contract is approved by the County ASC Committee.

(d) RCWP contracts shall include the basic contract document, the participant's water-quality plan, schedule of operations, and special provisions as needed.

(e) Technical assistance will be provided to participants to develop the water quality plan and to install BMPs.

(f) SCS or its designee shall approve the technical adequacy of the Water Quality Plan.

(g) Participants shall install BMPs according to the specifications that are applicable at the time the contract is signed or the measures are installed.

(h) The contract period is to be not less than 3 and not more than 10 years. A contract is to extend for at least 1 year after the application of the last cost-shared BMPs. All contract items are to be accomplished prior to contract expiration.

(i) BMPs are to be maintained by the participant at no cost to the RCWP.

(j) All BMPs in the water-quality plan shall be maintained for the established life span of the BMP.

(k) The County ASC Committee in consultation with the LCC shall establish a BMP life span for each BMP offered in the approved project area. Each BMP cost-shared shall have a life span of at least 5 years, unless otherwise approved by the Administrator, FSA.

(l) A participant may enter into a pooling agreement with other participants to solve mutual water quality problems.

(m) Participants are responsible for:

(1) Accomplishing the water quality plan.

(2) Obtaining and maintaining any required permits and easements necessary to perform the planned work.

(3) Applying or arranging for the application of BMPs, as scheduled in the plan, according to approved standards and specifications.

(4) The operation and maintenance of BMPs installed during the contract period.

(5) Obtaining the authorities, rights, easements, or other approvals necessary to maintain BMPs in keeping with applicable laws and regulations.

(n) Unless otherwise approved by the NCC, the County ASC Committees shall not enter into any new RCWP contracts after five (5) years from the date when RCWP funds are first made available to the project.

(Pub. L. 96–108, 98 Stat. 821, 835 and Pub. L. 96–528, 94 Stat. 3095, 3111)

[45 FR 14009, Mar. 4, 1980, as amended at 48 FR 42803, Sept. 20, 1983]

§ 700.26 Contract modifications.

(a) The County ASC Committee by mutual agreement with the landowner or operator, may modify contracts previously entered into if it is determined to be desirable to carry out the purposes of the program, facilitate the practical administration thereof, or to accomplish equitable treatment with respect to other conservation, land-use, and/or water quality programs.

(b) Requirements of active contracts may be modified by the County ASC Committee only if such modifications are specifically provided for in these regulations. The concurrence of SCS or its designee and the CD are necessary when modifications involve a technical aspect of the participant's water quality plan. A contract may be modified only if it is determined that such modifications are desirable to carry out purposes of the program or to facilitate the program's practical administration.