

(2) Individual persons who would actively use the area, if reclaimed, for agricultural or silvicultural purposes.

(3) All other participants.

[43 FR 44749, Sept. 28, 1978; 45 FR 65181, Oct. 2, 1980]

§ 632.13 Eligible lands and water.

Lands and water eligible for reclamation are those that were mined for coal or were affected by coal-mining processes and were abandoned or inadequately reclaimed before August 3, 1977. These lands and water are not eligible if:

(a) There is continuing reclamation responsibility on the part of a mine operator, permittee, or agent under State or Federal law or on the part of the State as a result of bond forfeiture. However, if the amount of the bond forfeiture was insufficient to reclaim the area covered by the bond, the area will be considered eligible.

(b) They are under Federal ownership and control.

(c) The surface rights are under easement or lease to be mined for coal or other minerals.

§ 632.14 Eligible land users.

Landowners holding surface land and water rights, residents, tenants, or their agents who own or have management control of eligible land and/or water are eligible to participate in the program. Residents or tenants who do not own the land must have control of the land for the period of the proposed contract and have the written consent of the landowner. Land users may participate by operating as persons, partnerships, associations, corporations, estates, trusts, or non-Federal public entities, and by acting individually or jointly with other eligible land users. However, joint participation with other eligible land users is required if the primary purpose of reclamation is enhancement of water quality or quantity.

§ 632.15 Eligible uses and treatment of reclaimed lands.

(a) Reclaimed lands and water may be used for cropland, hayland, pasture land, rangeland, woodland, wildlife land, natural areas, noncommercial recreation land, and the supporting

uses associated with these land uses. Other land uses proposed by public entities for public use and benefit such as open space, conservation uses, natural areas, and recreation sites may be approved by the NRCS State conservationist in accordance with the priorities stated in § 632.12. However, development of public sites, such as the installation of recreation facilities, is not eligible for cost sharing.

(b) Reclaimed land use is determined by the objectives of the land user, compatibility of the land use with surrounding land use, and the practicability and feasibility of restoring the soil and water resources to support the use selected.

(c) The maximum acreage of eligible lands and water that may be offered for contract under one ownership is 320 acres for the life of the program.

(d) Conservation treatment eligible for Federal cost sharing includes the combination of practices needed and feasible to achieve:

(1) Protection of life, property, and elimination of public health and safety hazards, including land stabilization.

(2) Restoration of the environment where degraded by past mining, including water quality, visual quality, recreation resources, fish and wildlife habitat, and erosion and sediment control.

(3) A site that can be developed for a beneficial use as specified in § 632.15(a). Examples of eligible treatment that may be cost shared include but are not limited to: Land shaping and grading, critical area planting or other plantings for stabilization, improving visual quality, wildlife food and cover, diversions or terraces, waterways or lined ditches, grade stabilization structures, sediment basins, and special practices for sealing shafts and tunnels, correcting subsidence problems, or other unusual situations. Practices not eligible for cost sharing are those that are solely applied to develop a reclamation site (including sites developed by public entities for public use), increase the production of crops, or for the recurring maintenance of applied reclamation.

(e) Applied conservation treatment is to meet the applicable Federal and State standards for the reclamation

§ 632.16

and conservation treatment of abandoned or inadequately reclaimed coal-mined lands and water. Where needed, these standards are incorporated in local NRCS technical guides as the NRCS standards and specifications applicable to the program. Special practices as specified in § 632.15(d) are to be developed in cooperation with appropriate State or Federal agencies having the expertise or responsibility for the practices.

(f) NRCS State conservationists, in consultation with the State reclamation committee, are to:

(1) Develop a list of practices that are eligible for cost sharing, and

(2) Maintain, as applicable, lists of average costs of applying conservation treatment to eligible lands and waters.

§ 632.16 Methods of applying planned land use and treatment.

(a) Land users may arrange to apply the planned land uses and conservation treatment specified in the contract by one or more of the following methods:

(1) By performing the required treatment with his own labor and equipment.

(2) By hiring a qualified contractor to install the required treatment.

(3) By requesting NRCS to award and administer a contract to perform the required treatment in accordance with 41 CFR chapters I and IV.

(b) State conservationists are to develop criteria specifying the conditions for which NRCS will award and administer a contract. Criteria will consider: Type of equipment required, type and amount of conservation treatment required, costs of the required reclamation, needs of the land user, and the applicable cost-share rate. If the Federal share is less than 100 percent, a land user must put up his estimated share of the cost before NRCS awards the contract.

§ 632.17 Cost-share rates.

(a) Cost-share rates paid by the Federal Government are to be established and issued as instructions by the NRCS Administrator in accordance with the following criteria:

(1) For 120 acres or less, the cost-share rate is to provide up to 80 percent of the costs of land use and conserva-

7 CFR Ch. VI (1-1-03 Edition)

tion treatment depending on the income-producing potential of the land after reclamation. However, this rate may be increased to a level required to obtain participation if the main benefits of reclamation are offsite (in the public interest) and there is a declaration of financial burden by the participant.

(2) The rate on acreage in excess of 120 acres up to 320 acres maximum is to be reduced by up to 0.5 percent per acre. This reduced rate applies to the entire acreage offered for contract.

§ 632.18 Special projects.

(a) The NRCS State conservationist may approve the following types of special projects subject to the eligibility requirements, funding priorities, and cost-share rates as stated in §§ 632.12, 632.13, 632.14, 632.15, and 632.17:

(1) Field trials or demonstration projects recommended by the State reclamation committee.

(2) Projects to enhance water quality and quantity where past coal-mining practices disturbed local water supplies and where joint action by a group of eligible land users in cooperation with Federal and State agencies is needed to restore the water resource.

§ 632.19 Crop history and allotments.

(a) Most crop history and allotments on eligible lands were discontinued at the time of mining. However, if eligible lands are classified as cropland at the time the contract is signed, the cropland crop history and allotment, if any, may be:

(1) Preserved for a period not to exceed twice the length of the contract as provided in 7 CFR part 719, or

(2) Voluntarily surrendered by the land user.

Subpart C—Participation

§ 632.20 Application for assistance.

(a) Land users must submit an application for program assistance through the local conservation district or NRCS field office. NRCS is to announce dates for receiving applications through local media. Applications are to be reviewed by the conservation district and/or local reclamation committee,