§ 632.12 Funding priorities.

(a) All eligible applications within a State are to be assigned a funding priority and subpriority. Assignment of a priority and subpriority establishes the order in which the proposed reclamation work will be selected and evaluated for funding. (See §632.20(b) for additional selection criteria.) Applications for individual, joint, or special projects (See §632.18) for areas of different priorities or subpriorities are to be assigned the highest applicable priority or subpriority. The funding priorities are as follows:

(1) Priority 1. Protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal-mining practices. Extreme danger means a condition that could be expected to cause substantial physical harm to persons, property, or the environment and to which persons or improvements on real property are exposed.

(2) Priority 2. Protection of public health, safety, and general welfare from the adverse effects of coal-mining practices that do not constitute an extreme danger.

(3) Priority 3. Restoration of the land and water resources and the environment where previously degraded by the adverse effects of coal-mining practices, including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity. First consideration in this priority is to be the reduction of offsite damage affecting the public. Second consideration is to be given to restoring to beneficial uses for the main benefit of the land user.

(b) Eligible and feasible applications for program assistance within each priority category (§632.12(a)) are to be funded in the following order:

(1) Individual persons or public entities who owned the eligible area before May 2, 1977, and who neither consented to nor exercised control over the mining operation.
§ 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 remined 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