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§ 632.4 Definitions.

Abandoned mined lands. Unreclaimed coal-mined lands that existed before August 3, 1977, and for which there is no 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 a bond forfeiture. See § 632.13.

Average costs. The calculated cost, determined by recent actual costs and current cost estimates, considered necessary for a land user to carry out a conservation practice or an identifiable unit of a conservation practice.

Conservation district. A legal subdivision of State government responsible for developing and carrying out programs of soil and water conservation with which the Secretary of Agriculture cooperates under the Soil Conservation and Domestic Allotment Act of 1935.

Conservation treatment. Specific conservation or reclamation practices applied to the land according to current standards and specifications in NRCS technical guides.

Contract. A binding agreement between NRCS and the land user that includes the reclamation plan and provides for cost sharing the conservation treatment.

Contracting officer. The NRCS official authorized to enter into and administer contracts for the Rural Abandoned Mine Program.

Cost. The monetary amount actually paid or obligated to be paid by the land user for equipment use, materials, and services for carrying out a conservation practice or identifiable unit. If the land user uses his own resources, it includes the computed value of his labor, equipment use, and materials.

Cost-share payments. Payments made to or on behalf of land users at established rates as specified in contracts for carrying out a conservation practice or an identifiable unit of such practices according to the contract.

Financial burden. The land user's cost of reclamation that cannot be expected to be recovered within the contract period and that would probably prevent participation in the program. The land user must sign a statement to substantiate financial burden.

Identifiable unit. A component of a conservation practice that can be clearly identified as a step in carrying out the conservation practice.

Inadequately reclaimed. Lands or water that are mined for coal or are affected by mining conducted before August 3, 1977, which continue in their present condition to substantially degrade the quality of the environment, prevent or damage beneficial use of land or water resources, or endanger the health or safety of the public.

Landrights. An interest acquired by fee simple title, easements, and rights-of-way to occupy or use land, buildings, structures, or other improvements.

Land user. Any person, partnership, firm, company, corporation, association, trust, estate, other entity, or agent that owns or has management control of the surface rights of the land during the contract period or owns water rights on eligible lands. Also included are State or local public entities that own or control eligible land and water.

Main benefits. The principal values or benefits that can be identified and/or quantified as a result of reclamation. Main offsite benefits are those values that accrue to surrounding land users or the public in general as a result of the reclamation. Main onsite benefits are those that accrue to the participant. Examples of principal values or benefits include but are not limited to human lives and property protected, reduction of erosion or sediment damage, elimination of public safety or health hazards, improvement of water quality, improved visual quality, improved fish or wildlife habitat, or restoration of beneficial uses of reclaimed areas.

Reclamation committee. A committee on a local or State level consisting of representatives of Federal and State agencies and other organizations or individuals that have responsibilities or interest in abandoned mine reclamation. The committee provides guidance to NRCS on the operation of the Rural Abandoned Mine Program.

Reclamation plan. A conservation and development plan as referred to in Pub. L. 95–87, consisting of a written record of land user decisions on proposed use,

conservation treatment, and maintenance of eligible lands and water that will protect, enhance, and maintain the resource base. A reclamation plan contains pertinent soils data, a planned land use map or drawing, a record of use and treatment decisions including a schedule of conservation treatment, and other resource data as appropriate.

Specified maximum costs. The maximum amount of cost-share money that is to be paid to a land user for carrying out a conservation practice or an identifiable unit of a conservation practice.

Standards and specifications. Requirements that establish the acceptable quality level for planning, designing, and installing a conservation practice so it achieves its intended purpose. NRCS standards and specifications are contained in the NRCS field office technical guides and are designed to be sound and practicable under local conditions. Technical guides are on file in local NRCS field offices.

Water rights. Any interest acquired in, priority established for, or permission obtained for the use of water.

[43 FR 44749, Sept. 28, 1978, as amended at 45 FR 65181, Oct. 2, 1980]

Subpart B—Qualifications

§ 632.10 Applicability.

This program applies to any county or other designated area within a State that had abandoned or inadequately reclaimed coal-mined lands within its borders before August 3, 1977.

§ 632.11 Availability of funds.

(a) The provisions of the program are subject to the annual appropriation by Congress of funds from the Abandoned Mine Reclamation Fund and the transfer of as much as 20 percent of these funds from the Office to Surface Mining to NRCS for program operation.

(b) Allotments of Rural Abandoned Mine Program funds to state conservationists are to reflect the national program needs, the geographic areas from which the funds were derived, the funding priority assigned to applications for program assistance, including benefits expected to be derived, and the practicability and feasibility of the reclamation work proposed.

§ 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.