

document to add that "funds not obligated must be remitted to the Secretary of Health and Human Services." This sentence was inadvertently dropped in the rule text.

f. Two requirements pertaining to the strategic plan were inadvertently omitted from paragraph (d)(12). One requirement provides that the strategic plan must indicate how the EZ/EC SSBG funds will be invested and used for the period of designation, and the second provides that the strategic plan must provide for periodic reporting of information by the relevant State. These requirements are now set forth in (d)(12)(vii) and (viii).

2. In § 25.401 (Periodic Performance Reviews), USDA sets forth guidelines for evaluation of progress in the implementation of strategic plans. This section is expanded to include responsibilities of implementation entities.

3. Editorial corrections are as follows:

a. In § 25.300(b)(1) the second sentence is deleted; "and;" is added.

b. In § 25.302 the numeral '3' is replaced by "three".

c. In § 25.401 "important" is replaced by "impartial".

d. In § 25.504 (b) the sentence "On a case basis, the Secretary will grant requests for waiver from the above definition of "rural" upon a showing of good cause", "above" is deleted and "stated in paragraph (2) of this section", is added following the word "rural". In the next sentence, "the above subsection" is deleted and "the definition in paragraph (a) of this section" is added following the word "satisfy".

The designation of Rural Development Administration has been changed to Rural Business and Cooperative Development Service.

IV. The Public Comments

General Comments

The January 18, 1994 interim rule provided for a 30-day public comment period. The public comment period expired on February 17, 1994. Comments, however, were accepted through March 1, 1994. By this date, a total of 36 comments had been received. The commenters consisted of the Federal agencies, labor unions, (insert "private citizens") State and local jurisdictions, state legislators and non-profit organizations. USDA received several good suggestions and recommendations from commenters that will be adopted or considered in any future rulemaking. Other suggestions, although of equal merit, could not be adopted given the current statutory

framework of the EZ/EC Program. Other requests for changes or clarification were determined to be adequately addressed by the January 18, 1994 interim rule. The following provides a summary of the significant issues raised by public commenters and USDA's response to these issues.

Technical Corrections

Comment: Five commenters highlighted inadvertent omissions in the text of the interim rule regarding the use of EZ/EC SSBG funds.

Response: Appropriate corrections were adopted in this final rule.

Business Non-Relocation

Comment: The AFL-CIO makes the point that public funds should not be used to encourage plant relocations from one location to another and that the Federal government should not be a participant in state and local programs which only shift employment from one location to another. The letter called for strengthening regulations by placing the responsibility on the communities to show that relocations did not occur and that jobs created in the community are not at the expense of another location. The following recommendations were made regarding enforcement of the non-relocation provision: (1) Require firms to certify that they did not relocate from another area; (2) require public assistance to firms be paid back if plant relocations occur; (3) require employers to list annual employment at plant locations so that relocations could be monitored. Commenters also recommend revocation of EZ/EC designation if job relocations occur in the approved zones. The final comment sought the addition of labor unions to the list among segments of the community that could form community-based partnerships.

Response: The issue of non-relocation of business received consideration early in the developmental stages of the EZ/EC program. The regulations include a prohibition against business relocation by prohibiting any activity in the strategic plan to assist business relocation to the nominated area from an area outside the nominated area. According to the Empowerment Zone statute (26 U.S.C. 1391 (f)(2)(F)), expansion of an existing business entity is permitted if (1) it will not result in a decrease in employment in any area where the company currently conducts business; and (2) there is no reason to believe that a new branch is being established with the intention of closing down the existing business in another area. The issue of non-relocation can be

dealt with in the monitoring and evaluation process.

Comment: One commenter requested clarification on the issue of relocation of foreign plants/entities to Empowerment Zones or Enterprise Communities.

Response: The statute does not distinguish between foreign and domestic businesses in the prohibition against business relocation.

Comments on Census Data Calculations

Comment: One commenter recommended that where calculations are made to determine eligibility, numbers should be rounded off and in a direction to favor the applicant. This recommendation would allow readjustment of the poverty threshold in the case of less than 10 census tracts and rounding off up to 5 percentage points.

Response: USDA disagrees with the commenter. Section 25.103 b(4) states: "In making the calculations required by this section, the Secretary shall round all fractional percentages of one-half percentage point or more up to the next highest whole percentage point figure". There is no authority for special mathematical rounding of the number of census tracts when there are less than 10 tracts (BNAs) identified.

Comments on Census Tracts and Census Tract Definitions

Comment: Nineteen commenters requested the use of census block data in lieu of census tract data and to broaden the definition of population census tracts.

Response: USDA is unable to adopt the suggestions of the commenters. The statute requires the use of the most recent decennial census data available. The regulations which govern designation of Empowerment Zones and Enterprise Communities (part 25, subpart A, § 25.101(a)) indicate that the data employed to determine eligibility is based on the 1990 Census and from information published by the Bureau of the Census and the Bureau of Labor Statistics. Census tracts or block numbering areas are used to satisfy these requirements. The census data is reported in terms of census tracts or block number areas and not for other graphical units.

Comment: Three commenters indicated that the statutory requirement to limit the area of nominated areas to 20 square miles for urban areas and 1000 square miles for rural areas imposed undue difficulties for many areas of the West and Southwest.

Response: USDA is unable to adopt the suggestions of the commenters. The statute requires the size limitation and