

subdivisions which is recognized by the Secretary.

*Nominated area* means an area which is nominated by one or more local governments and the State or States in which it is located for designation pursuant to this part.

*Population census tract* means a census tract, or, if census tracts are not defined for the area, a block numbering area (BNA).

*Poverty* means the number of persons listed as being in poverty in the 1990 Census.

*Revocation of designation* means the process by which the Secretary may revoke the designation of an area as an Empowerment Zone or Enterprise Community pursuant to § 25.403 of this part.

*Rural area* means any area defined pursuant to § 25.504 of this part.

*Secretary* means the Secretary of Agriculture.

*State* means any State in the United States.

*Strategic plan* means a strategy developed by the applicant, with the participation and commitment of local governments, State government(s), private sector, community members and others, pursuant to the provisions of § 25.200(c) of this part. The plan must include written commitments from the local governments and State(s) that they will adhere to the strategy.

*USDA* means the U.S. Department of Agriculture.

#### § 25.4 Secretarial review and designation.

(a) *Designation.* The Secretary will review applications for the designation of nominated rural areas to determine the effectiveness of the strategic plans submitted by applicants in accordance with § 25.200 of this part. The Secretary will designate up to three rural Empowerment Zones and up to 30 rural Enterprise Communities.

(b) *Period of designation.* The designation of a rural area as an Empowerment Zone or Enterprise Community shall remain in full effect during the period beginning on the date of designation and ending on the earliest of:

- (1) The close of the tenth calendar year beginning or after the date of designation;
- (2) The termination date designated by the State and local governments in their application for nomination; or
- (3) The date the Secretary revokes or modifies the designation, in accordance with § 25.402 or § 25.403 of this part.

#### § 25.5 Waivers.

The Secretary may waive any provision of this part in any particular

case subject only to statutory limitations, for good cause, where it is determined that application of the requirement would produce a result adverse to the purpose and objectives of this part.

#### Subpart B—Area Requirements

##### § 25.100 Eligibility requirements and data usage.

*Eligibility Criteria.* A nominated rural area may be eligible for designation pursuant to this part only if the area:

- (a) Has a maximum population of 30,000;
- (b) Is one of pervasive poverty, unemployment, and general distress, as described in § 25.102 of this part;
- (c) Does not exceed one thousand square miles in total land area;
- (d) Be located entirely within no more than three contiguous States; if it is located in more than one State, the area must have one continuous boundary; if located in only one State, the area may consist of up to three noncontiguous parcels;
- (e) Is located entirely within the jurisdiction of the unit or units of general local government making the nomination;
- (f) Does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the individual poverty rate of each population census tract in the district is not less than 35 percent for an Empowerment Zone and 30 percent for an Enterprise Community; and
- (g) Does not include any area within an Indian reservation.

##### § 25.101 Data utilized for eligibility determinations.

(a) *Source of data.* The data to be employed in determining eligibility pursuant to the criteria described in § 25.102 of this part shall be based on the 1990 Census, and from information published by the Bureau of Census and the Bureau of Labor Statistics. The data shall be comparable in point or period of time and methodology employed.

(b) *Use of statistics on boundaries.* The boundary of a rural area nominated for designation as an Empowerment Zone or Enterprise Community must coincide with the boundaries of census tracts, or, where tracts are not defined, with block numbering areas.

##### § 25.102 Tests of pervasive poverty, unemployment and general distress.

(a) *Pervasive poverty.* Conditions of poverty must be reasonably distributed throughout the entire nominated area. The degree of poverty shall be demonstrated by citing available

statistics on low-income population and levels of public assistance. Poverty is demonstrated by poverty data from the 1990 census.

(b) *Unemployment.* The degree of unemployment shall be demonstrated by the provision of information on the number of persons unemployed, underemployed (those with only a seasonal or part-time job) or discouraged workers (those capable of working but who have dropped out of the labor market—hence are not counted as unemployed), increase in unemployment rate, job loss, plant or military base closing, or other relevant unemployment indicators having a direct effect on the nominated area.

(c) *General distress.* General distress shall be evidenced by describing adverse conditions within the nominated area other than those of pervasive poverty and unemployment. Below average or decline in per capita income, earnings per worker, per capita property tax base, average years of school completed; outmigration and population decline from 1980–1990, and a high or rising incidence of crime, narcotics use, abandoned housing, deteriorated infrastructure, school dropouts and illiteracy are examples of appropriate indicators of general distress. The data and methods used to produce such indicators that are used to describe general distress must all be stated.

##### § 25.103 Poverty rate.

(a) *General.* Eligibility of an area on the basis of poverty shall be established in accordance with the following criteria:

- (1) In each census tract within a nominated area, the poverty rate shall be not less than 20 percent; and
- (2) For at least 90 percent of the population census tracts within the nominated area, the poverty rate shall not be less than 25 percent; and
- (3) For at least 50 percent of the population census tracts within the nominated area, the poverty rate shall be not less than 35 percent.

(b) *Special rules relating to the determination of poverty rate.*—(1) *Census tracts with no population.* Census tracts with no population shall be treated as having a poverty rate that meets the standards of paragraphs (a)(1) and (a)(2) of this section, but shall be treated as having a zero poverty rate for purposes of applying paragraph (a)(3) of this section.

(2) *Census tracts with populations of less than 2,000.* A population census tract with a population of less than 2,000 shall be treated as having a poverty rate that meets the requirements