

the Board or otherwise indicates an intention not to continue the prosecution of defense of an appeal, the Board may, in the case of a default by the appellant, issue an order to show cause why the appeal should not be dismissed or, in the case of a default by the Government, issue an order to show cause why the Board should not act thereon pursuant to Rule 33. If good cause is not shown, the Board may take appropriate action.

Rule 32. Remand From Court

Whenever any court remands a case to the Board for further proceedings, each of the parties shall, within 20 days of such remand, submit a report to the Board recommending procedures to be followed so as to comply with the court's order. The Board shall consider the reports and enter special orders governing the handling of the remanded case. To the extent the court's directive and tie limitations permit, such orders shall conform to these rules.

Rule 33. Sanctions

If any party fails or refuses to obey an order issued by the Board, the Board may then make such order as it considers necessary to the just and expeditious conduct of the appeal.

Rule 34. Alternative Dispute Resolution

Upon joint motion or with the consent of both parties, the Board may permit the use of methods of Alternative Dispute Resolution (ADR). The Board shall notify parties of the availability of ADR methods by transmitting information with its notice of docketing (Rule 3).

Rule 35. Application for Attorneys' Fees and Expenses Under the Equal Access to Justice Act

The Equal Access to Justice Act (EAJA), 5 U.S.C. 504, allows payment of attorneys' fees and expenses to certain prevailing parties in administrative adjudications with the Government unless the Government's position was substantially justified. Rules governing applications for fees and expenses under EAJA can be found in 7 CFR 1.180 *et seq.*

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SOURCE: 63 FR 19114, Apr. 16, 1998, unless otherwise noted.

Subpart A—General Provisions

§ 25.1 Applicability and scope.

(a) *Applicability.* This part sets forth policies and procedures applicable to rural Empowerment Zones and Enterprise Communities, authorized under the Omnibus Budget Reconciliation Act of 1993, title XIII, subchapter C,

part I (Round I) and the Taxpayer Relief Act of 1997, title IX, subtitle F (Round II).

(b) *Scope*. This part contains provisions relating to area requirements, the nomination process for rural Empowerment Zones and rural Enterprise Communities, and the designation of these Zones and Communities by the Secretary of the U.S. Department of Agriculture (Secretary) (USDA). Provisions dealing with the nominations and designation of urban Empowerment Zones and Enterprise Communities are promulgated by the U.S. Department of Housing and Urban Development (HUD). This part also contains provisions relating to granting certain nominated areas status as Champion communities.

§ 25.2 Objective and purpose.

The purpose of this part is to provide for the establishment of Empowerment Zones and Enterprise Communities in rural areas in order to facilitate the empowerment of the disadvantaged and long-term unemployed such that they may become economically self-sufficient, and to promote revitalization of economically distressed areas, primarily by facilitating:

(a) Coordination of economic, human services, health, transportation, education, community, and physical development plans, and other plans and related activities at the local level;

(b) Local partnerships fully involving affected communities and local institutions and organizations in developing and implementing a comprehensive multi-sectoral strategic plan for any nominated rural Empowerment Zone or Enterprise Community;

(c) Tax incentives and credits; and

(d) Distribution of other federal resources including grants from USDA and other federal departments, including Empowerment Zone and Enterprise Community Social Services Block Grant (EZ/EC SSBG) funds as may be available from the U.S. Department of Health and Human Services (HHS).

§ 25.3 Definitions.

As used in this part—

Annual report means the report submitted to USDA by all rural Empower-

ment Zones and Enterprise Communities pursuant to § 25.400.

Applicant means the entity that is submitting the community's strategic plan for accomplishing comprehensive economic, human community, and physical development within the area; such an entity may include, but is not limited to, State governments, local governments, tribal governments, regional planning agencies, non-profit organizations, community-based organizations, or a partnership of community members and other entities. The applicant may be the same as or different from the lead managing entity.

Baseline condition means a measurable condition or problem at the time of designation for which benchmark goals have been established for improvement.

Benchmark activity means a program, project, task or combination thereof which is designed to achieve a benchmark goal.

Benchmark goal means a measurable goal targeted for achievement in the strategic plan.

Census tract means a population census tract, or, if census tracts are not defined for the area, a block numbering area (BNA) as established by the Bureau of the Census, U.S. Department of Commerce. BNAs are areas delineated by state officials or (lacking state participation) by the Census Bureau, following Census Bureau guidelines, for the purpose of grouping and numbering decennial census blocks in counties or statistically equivalent entities in which census tracts have not been established. A BNA is equivalent to a census tract in the Census Bureau's geographic hierarchy.

Brownfield means a "qualified contaminated site" meeting the requirements of section 941 of the Taxpayer Relief Act of 1997, (26 U.S.C. 198(c)), where the site is located in an empowerment zone or enterprise community.

Champion Community means a rural area granted such status by the Secretary pursuant to this part from among those communities which applied for designation as either a rural Empowerment Zone or Enterprise Community and which were not so designated.