

(iii) Developable sites, in the aggregate not exceeding 2,000 acres, may (and in the event the Census tract exceeds 1,000 square miles, will) be excluded in determining the square mileage of the nominated area;

(3) For purposes of applying paragraph (a)(2) of this section to Round II designations, the following shall not be treated as violating the continuous boundary requirement nor the limit on the number of noncontiguous parcels:

(i) Exclusion of excess area pursuant to paragraph (b)(2)(i) of this section;

(ii) Exclusion of government owned land pursuant to paragraph (b)(2)(ii) of this section; or

(iii) Exclusion of developable sites pursuant to paragraph (b)(2)(iii) of this section; and

(4) Paragraph (a)(5) of this section shall not apply where a Round I Enterprise Community is applying either in its entirety or together with an additional area for a Round II Empowerment Zone designation.

[63 FR 19114, Apr. 16, 1998, as amended at 63 FR 53780, Oct. 7, 1998]

§ 25.104 Poverty rate.

(a) *General.* Eligibility of an area on the basis of poverty shall be established in accordance with the following poverty rate criteria specific to Round I and Round II nominated areas:

(1) *Round I*—(i) In each Census tract, the poverty rate may not be less than 20 percent;

(ii) For at least 90 percent of the Census tracts within the nominated area, the poverty rate may not be less than 25 percent; and

(iii) For at least 50 percent of the Census tracts within the nominated area, the poverty rate may not be less than 35 percent.

(2) *Round II*—(i) In each Census tract, the poverty rate may not be less than 20 percent;

(ii) For at least 90 percent of the Census tracts within the nominated area, the poverty rate may not be less than 25 percent;

(iii) Up to three noncontiguous developable sites, in the aggregate not exceeding 2,000 acres, may be excluded in determining whether the requirements of paragraphs (a)(2)(i) and (a)(2)(ii) of this section are met; and

(iv) The Secretary may designate not more than one rural Empowerment Zone without regard to paragraphs (a)(2)(i) and (a)(2)(ii) of this section if such nominated area satisfies the emigration criteria specified in paragraph (b)(2)(iii) of this section.

(b) *Special rules.* The following special rules apply to the determination of poverty rate for Round I and Round II nominated areas:

(1) *Round I*—(i) *Census tracts with no population.* Census tracts with no population shall be treated as having a poverty rate that meets the requirements of paragraphs (a)(1)(i) and (a)(1)(ii) of this section, but shall be treated as having a zero poverty rate for purposes of applying paragraph (a)(1)(iii) of this section;

(ii) *Census tracts with populations of less than 2,000.* A Census tract with a population of less than 2,000 shall be treated as having a poverty rate which meets the requirements of paragraphs (a)(1)(i) and (ii) of this section if more than 75 percent of the tract is zoned for commercial or industrial use;

(iii) *Adjustment of poverty rates for Round I Enterprise Communities.* For Round I Enterprise Communities only, the Secretary may, where necessary to carry out the purposes of this part, apply one of the following alternatives:

(A) Reduce by 5 percentage points one of the following thresholds for not more than 10 percent of the Census tracts (or, if fewer, five Census tracts) in the nominated area:

(1) The 20 percent threshold in paragraph (a)(1)(i) of this section;

(2) The 25 percent threshold in paragraph (a)(1)(ii) of this section;

(3) The 35 percent threshold in paragraph (a)(1)(iii) of this section; or

(B) Reduce the 35 percent threshold in paragraph (a)(1)(iii) of this section by 10 percentage points for three Census tracts.

(2) *Round II*—(i) *Census tracts with no population.* Census tracts with no population shall be treated the same as those Census tracts having a population of less than 2,000;

(ii) *Census tracts with populations of less than 2,000.* A Census tract with a population of less than 2,000 shall be treated as having a poverty rate of not less than 25 percent if:

(A) More than 75 percent of such tract is zoned for commercial or industrial use; and

(B) Such tract is contiguous to 1 or more other Census tracts which have a poverty rate of 25 percent or more, where such determination is made without applying § 25.104(b)(2)(ii).

(iii) *Emigration criteria.* For purposes of the discretion as may be exercised by the Secretary pursuant to paragraph (a)(2)(iv) of this section, a nominated area must demonstrate outmigration of not less than 15 percent over the period 1980–1994 for each census tract. The outmigration for each census tract in the nominated area shall be as reported for the county in which the census tract is located: *Provided, however,* That the nominated area may include not more than one census tract where the reported outmigration is less than 15 percent, which tract shall be contiguous to at least one other census tract in the nominated area.

(c) *General rules.* The following general rules apply to the determination of poverty rate for both Round I and Round II nominated areas.

(1) *Rounding up of percentages.* 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.

(2) *Noncontiguous parcels.* Each such parcel (excluding, in the case of Round II, up to 3 noncontiguous developable sites not exceeding 2,000 acres in the aggregate) must separately meet the poverty criteria set forth in this section.

(3) *Areas not within census tracts.* In the case of an area which is not tracted for Census tracts, the block numbering area shall be used for purposes of determining poverty rates. Block groups may be used for Alaska and Hawaii.

§§ 25.105–25.199 [Reserved]

Subpart C—Nomination Procedure

§ 25.200 Nominations by State and local governments.

(a) *Nomination criteria.* One or more local governments and the States in

which an area is located must nominate such area for designation as an Empowerment Zone or Enterprise Community. Nominated areas can be considered for designation only if:

(1) The rural area meets the applicable requirements for eligibility identified in § 25.100;

(2) The Secretary determines such governments have the authority to nominate the area for designation and to provide the assurances described in paragraph (b) of this section; and

(3) The Secretary determines all information furnished by the nominating States and local governments is reasonably accurate.

(b) *Required certifications and assurances.* The State and local governments nominating an area for designation must:

(1) Submit the following certifications:

(i) Each nominating governmental entity has the authority to:

(A) Nominate the rural area for designation as an Empowerment Zone or Enterprise Community and make the assurances required under this part;

(B) Make the State and local commitments contained in the strategic plan or otherwise required under this part; and

(C) Provide written assurances satisfactory to the Secretary that these commitments will be met; and

(ii) The nominated area satisfies the eligibility criteria referenced in § 25.100, inclusive of the requirement that either:

(A) No portion of the area nominated is already included in a designated Empowerment Zone or Enterprise Community or in an area otherwise nominated to be designated under this section; or

(B) Where an existing Round I Enterprise Community is seeking to be designated as a Round II Empowerment Zone, that the nominated area includes the entirety of the applicable Round I Enterprise Community and that any other areas as may be included in the application do not comprise any portion of a designated Empowerment Zone or Enterprise Community or part of an area otherwise nominated to be designated under this section; and

(2) Provide written assurance that: