"involve employment" of low- and moderate-income persons (reference Section 105(c)(1) of the Act), they cannot generally be considered to directly "create" or "retain" jobs as those terms are used in the CDBG regulations.

National Objective Standards for Lowand Moderate-Income Housing Activities

As noted under the low- and moderate-income area benefit discussion earlier in this preamble. HUD has added in this final rule new paragraphs § 570.208(d)(5) and (6) in the Entitlement regulations and § 570.483(e)(4) in the State regulations. These paragraphs lay out various national objective options for activities undertaken in certain lower-income areas either by a CDFI or (in Entitlement communities) pursuant to a HUDapproved economic revitalization strategy. Paragraph (ii) of each of these new sections refers to housing activities carried out under these circumstances, and they are cross referenced in § 570.208(a)(3) in the Entitlement regulations and § 570.483(b)(3) in the State regulations in this final rule. As noted earlier, Section 105(c)(3) of the Act limits the manner in which housing activities may be considered to benefit low- and moderate-income persons, and it precludes the use of an area benefit claim for such activities. As an alternative, the new provisions in this final rule permit all housing activities carried out under the delineated limited circumstances to be grouped together and considered as a single structure for purposes of complying with the lowand moderate-income housing national objective requirements. (For example, a grantee providing rehabilitation assistance to 10 single-family housing units in such an area could classify all 10 units as meeting the low- and moderate-income benefit national objective if at least six of the units were occupied by low- and moderate-income persons.) For the calculation of the overall low- and moderate-income benefit level of a grantee's CDBG program, such housing is still subject to the limitation on benefit to low- and moderate-income persons relative to activity costs, pursuant to § 570.200(a)(3)(iv) of the Entitlement regulations and § 570.484(b)(4) of the State regulations.

National Objective Standards for Benefiting Low- and Moderate-Income Persons Through the Creation or Retention of Jobs

Presumptions Added by 1992 Act

Issue. A total of 19 commenters addressed the general manner in which HUD proposed to implement the presumptions for determining an employee's status as a low- and moderate-income person that were added to the HCD Act as a new Section 105(c)(4) by Section 806(e) of the 1992 Act for job creation and retention activities. Of the total number of commenters, 11 clearly indicated their support for the proposed change, and five stated their opposition. Most of the support comments were based on the reduced burden and "less intrusive" means for determining the low- and moderate-income status of employees. Most of the comments opposing the proposed change referenced the fact that the proposed rule used only the minimum test for Empowerment Zone and Enterprise Community census tract. Concern was particularly expressed that there was no reference to the "pervasive poverty, unemployment, and general distress" requirement for Empowerment Zone and Enterprise Communities. (6 local government agencies, 6 national associations, 1 state agency, 3 development organizations, 2 private citizens, and 1 HUD Field staff person)

Response. After a thorough review of all of the above comments and the applicable statutory references at Title XIII, Chapter I, Subchapter C, Part I of the Omnibus Budget Reconciliation Act of 1993 regarding the eligibility criteria for Empowerment Zones and Enterprise Communities, HUD has determined that the presumptions added by the 1992 Act should be implemented in a more stringent manner than was set forth in the proposed rule. The Department particularly agrees with those commenters who noted that the "pervasive poverty, unemployment, and general distress" eligibility requirement for Empowerment Zone and Enterprise Communities should be reflected in the implementation of the subject low- and moderate-income presumptions for job creation and retention activities under the CDBG program. Thus, a new paragraph § 570.208(a)(4)(v) of the Entitlement regulations and a new paragraph § 570.483(b)(4)(v) of the State regulations have been added to define the requirements a census tract (or block numbering area) must meet in order to qualify for the presumptions added by the 1992 Act. Under these provisions, a census tract must, in part, demonstrate pervasive poverty and general distress

by meeting at least one of three delineated standards. Two of these standards relate to the poverty levels in the various block groups comprising the census tract. The third standard provides a grantee with the option of requesting a determination from HUD that a census tract meets the "pervasive" test based on other objectively determinable signs of general distress. The Department intends to have the subject determinations made at the HUD Field Office level.

A conforming change to the new \$570.506(b)(7) of the Entitlement regulations regarding records that need to be maintained for the subject presumptions is also included in the final rule.

Issue. A total of 10 commenters responded to HUD's specific request for comment as to whether tighter presumption standards should be established for census tracts that comprise or include any part of a community's central business district (CBD), as discussed in the **Empowerment Zone and Enterprise** Community legislation. Six of the commenters wanted no special standards for CBDs. Four of the commenters argued that there must be tighter standards for such areas given the statutory eligibility criteria for **Empowerment Zones and Enterprise** Communities (4 local government agencies, 3 national associations, 1 development organization, and 2 private

Response. After a thorough review of all of the above comments and the applicable statutory references, HUD has determined that tighter presumption standards must be established for CBDs. The statutory arguments are compelling. Thus, in the new paragraph § 570.208(a)(4)(v) of the Entitlement regulations and a new paragraph § 570.483(b)(4)(v) of the State regulations added by this final rule, HUD has included language similar to that which appears in the **Empowerment Zone and Enterprise** Community regulations regarding this issue, establishing a 30 percent poverty standard for any census tract that includes any portion of a CBD (as that term is used in the most recent Census of Retail Trade).

Issue. Two commenters recommended that HUD revise the proposed rule language to include census tracts that qualify for Empowerment Zone or Enterprise Community eligibility under that program's special rules relating to the determination of poverty rates for census tracts with small populations, particularly those tracts that are more