maintain all of the key CDBG materials together in several locations throughout the community to make it easier for citizens to involve themselves in the program. HUD is unwilling to require this of all grantees, but notes that local citizen groups having particular problems in this regard may want to press their grantee to do this on a voluntary basis.

One commenter recommended that grantees be required to identify the amount of "unexpended" funds allocated in previous years at the time it provides information to citizens about the amount of CDBG funds available in the coming year. The expressed objectives of this suggestion were that it would help citizens identify problem areas (presumably with performance) and would highlight that certain needs will not have to be addressed in the coming year's program because of earlier allocation decisions.

The Department does not believe that such a change would be appropriate, since the rule already requires sufficient disclosure of performance. (The rule requires that performance be covered at a public hearing and that the grantee's performance report be subjected to public review and comment.)

Section 91.205 Housing and homeless needs assessment

a. Categories of Persons Affected

Numerous low-income and disability community advocates commented that the proposed rule does not require the level of detail on subpopulations that was required in the CHAS Table 1C. They argue that this information is essential to illustrate the needs of special populations. A disability group advocate indicates that the rule fails to create a comprehensive, inclusive and detailed needs analysis for programs that address the needs of persons living with HIV/AIDS. The commenter states that all jurisdictions are likely to be affected by the HIV epidemic and should have a needs assessment for residents in their areas who are living with HIV/AIDS, even if they are not seeking funds under the HOPWA program.

The low-income advocates also note that the proposed rule does not require that the needs of single, non-elderly or households of nonrelated individuals be identified. Also missing is the requirement to identify needs of nonhomeless people with disabilities, especially those with AIDS.

The Department has revised the rule to specify that the needs must be estimated for the number and type of families by income groups and tenure. The requirement now includes specific reference to single persons. Nonelderly persons presumably fall into the general categories of persons whose needs are identified. Households of nonrelated individuals are covered by the HUD definitions.

Nonhomeless people with special needs are now the subject of a separate paragraph (d) in § 91.205. This category covers elderly, frail elderly, persons with disabilities (mental, physical developmental), persons with alcohol or other drug addiction, persons with HIV/AIDS and their families, and any other categories the jurisdiction may specify.

We note that with regard to identification of special needs populations, the use of HOME tenant-based rental assistance to be used exclusively for assistance to one subpopulation of the disabled will only be permitted if the grantee can demonstrate that (1) the need has been documented in its consolidated plan, and (2) the reason for their preferential treatment is to narrow the gap in available benefits and services to the group. Therefore, this element is essential to the consolidated plan.

The Department declines to require all the information contained in CHAS Table 1C, because that would be contrary to our efforts to avoid unnecessary requirements and detailed tables. However, we have attempted to assure that the categories of special need to be served by the Department's programs are adequately addressed in the assessment of need.

Low-income advocates also stated that an indicator of need which should be included is analysis of the public housing and Section 8 waiting lists. We are including this suggestion in the implementing Guidelines.

Several public interest groups and local government commenters questioned the requirement to collect data on "extremely low-income" families, indicating that this information was not statutorily required, not required by the four grant programs included in the proposed rule for targeting program assistance, and not required in the past. As described above in the discussion of definitions, the term "extremely low-income" has been preserved in the final rule.

b. Disproportionate Need

Two local governments disagreed with the methodology on disproportionate need, indicating that it should be weighted for population size. Several low-income advocacy commenters thought the approach was excellent. The Department is preserving the language on calculation of

disproportionate need from the proposed rule.

c. Lead-Based Paint Hazards

Several local government commenters requested that they not be required to provide data on lead-based paint hazards, since it was not easily available. One local government commenter suggested a rough analysis between Census data on pre-1970 housing and low-income occupancy data as a way to yield a pool of units likely to have some of lead-based paint.

The requirement to provide this information is statutory. The commenter's suggestion for a method to estimate the scope of hazard is not unreasonable. However, the consultation section (§ 91.100) does require consultation with local health and child welfare agencies and examination of health department data on this subject in the preparation of the consolidated plan.

d. Homeless

Several low-income advocates and disability community advocates complained about the deletion of the CHAS rule's more detailed homeless needs assessment. Commenters indicated that the rule should spell out in detail the data required to be submitted. The proposed rule requires that a homeless needs table be included in the plan that is prescribed by HUD. This follows the statutory language. The final rule preserves this provision intact.

e. Racial Impact

A number of low-income advocates stated that racial impact should be addressed in the needs assessment. In fact, several groups advocated that if this rule were implemented without the anticipated Fair Housing Plan rule it should contain consideration of racial impact in every element of the consolidated plan.

The Department has decided to deal with the more comprehensive issue of a Fair Housing Plan in a separate proposed rule, which is expected to be published shortly. To assure that some minimal requirements for compliance with the statutorily required certification that a jurisdiction is affirmatively furthering fair housing, this rule includes, in the certification section, the requirement that an analysis of impediments be done and that the steps to address the impediments be described, mirroring the language added to the CDBG regulations on the same subject. In addition, the performance report now includes for all programs the element of data on race and ethnicity of beneficiaries.