

**TITLE 9 HUMAN RIGHTS**  
**CHAPTER 2 AGE**  
**PART 4 DESIGNATION OF PLANNING AND SERVICE AREAS**

**9.2.4.1 ISSUING AGENCY:** New Mexico Aging and Long Term Services Department (NMALTSB)  
[9.2.4.1 NMAC - Rp, SAA Rule No. 95-4.1, 6/30/2015]

**9.2.4.2 SCOPE:** These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico's aging and disability populations.  
[9.2.4.2 NMAC - Rp, SAA Rule No. 95-4.2, 6/30/2015]

**9.2.4.3 STATUTORY AUTHORITY:** Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965, 42 U.S.C. Sections 3001 to 3058, and implementing regulations.  
[9.2.4.3 NMAC - Rp, SAA Rule No. 95-4.3, 6/30/2015]

**9.2.4.4 DURATION:** Permanent.  
[9.2.4.4 NMAC - Rp, SAA Rule No. 95-4.4 6/30/2015]

**9.2.4.5 EFFECTIVE DATE:** June 30, 2015, unless a later date is cited at the end of a section.  
[9.2.4.5 NMAC - Rp, SAA Rule No. 95-4.5, 6/30/2015]

**9.2.4.6 OBJECTIVE:** The objective of this rule is to establish standards and procedures for the federal and state-funded programs administered by the aging and long-term services department.  
[9.2.4.6 NMAC - Rp, SAA Rule No. 95-4.6, 6/30/2015]

**9.2.4.7 DEFINITIONS:** See 9.2.1.7 NMAC for definitions.  
[9.2.4.7 NMAC - Rp, SAA Rule No. 95-4.7, 6/30/2015]

**9.2.4.8 LEGAL REFERENCES:** [RESERVED]  
[9.2.4.8 NMAC - Rp, SAA Rule No. 95-4.8, 6/30/2015]

**9.2.4.9 DESIGNATION OF PLANNING AND SERVICE AREAS (PSAs):** Existing intrastate planning and service areas (PSAs) shall continue to be designated unless:  
**A.** There is demonstrated evidence that designation of an existing PSA is inconsistent with the purpose of the rules and regulations issued pursuant to the Older Americans Act; or  
**B.** The designation of another PSA is necessary for the assurance of the efficient and effective administration of programs authorized by the Older Americans Act and operating in the state.  
[9.2.4.9 NMAC - Rp, SAA Rule No. 95-4.9, 6/30/2015]

**9.2.4.10 TYPE OF DESIGNATION:** The department may designate "federally recognized" planning and service areas under the auspices of the Older Americans Act and may designate "non-federally recognized" planning and service areas under state authority. Non-federally recognized planning and service areas may duplicate or overlap with federally recognized planning and service areas and shall be established in order to address special service needs or target populations and to facilitate the distribution of state funds.  
[9.2.4.10 NMAC - Rp, SAA Rule No. 95-4.10, 6/30/2015]

**9.2.4.11 CRITERIA FOR PSA DESIGNATION:** The department shall divide the state into distinct planning and service areas, considering the following criteria:  
**A.** Geographical distribution of older individuals in the state;  
**B.** Incidence of the need for supportive services, nutrition services, multipurpose senior centers, legal assistance, and other services;  
**C.** Distribution of older individuals who have greatest economic need, particularly those with low-incomes;  
**D.** Distribution of older individuals residing in rural areas;  
**E.** Distribution of minority older individuals;

- F. Distribution of older individuals with limited English proficiency;
  - G. Distribution of older individuals who have greatest social need;
  - H. Distribution of Native American Indian elders;
  - I. Distribution of resources available to provide services;
  - J. Boundaries of existing areas within the state which were drawn for the planning or administration of supportive services programs; and
  - K. Location of units of general purpose local government within the state.
- [9.2.4.11 NMAC - Rp, SAA Rule No. 95-4.12, 6/30/2015]

**9.2.4.12 PROCEDURE FOR PSA DESIGNATION:**

- A. Non-department initiated:
    - (1) Any unit of general purpose local government, region within a state recognized for area wide planning, metropolitan area, or Indian tribe may make application to the department to be designated as a planning and service area.
    - (2) The aging network division director, as the department secretary's designee, shall approve or disapprove any such application submitted under paragraph (1) of this Section.
    - (3) Any applicant under paragraph (1) of this section whose application for designation as a planning and service area is denied by the department may appeal the denial in writing to the department secretary within thirty (30) days of such denial.
    - (4) If the department denies an applicant for designation as a planning and service area under paragraph (1) of this section, the department shall provide a hearing on the denial of the application, in accordance with 9.2.11 NMAC if requested by the applicant, as well as issue a written decision on the denial within sixty (60) days following the hearing.
  - B. Department initiated: The department may designate additional planning and service areas or redefine existing planning and service areas based upon changes in the criteria for PSA designation in accordance with 9.2.4.11 NMAC.
  - C. The department shall solicit public input with regard to any proposed changes or additions to PSA designation.
    - (1) At least one (1) public hearing shall be held in each county and Indian tribe proposed to be affected.
    - (2) Thirty (30) day notice of such hearing(s) shall be provided to all area agencies on aging, aging network providers, tribes, and units of general purpose government where each entity will be provided the opportunity to provide oral or written comment.
    - (3) Entities will also be provided with the opportunity to submit written comments to the aging network division director, if they are unable to attend a public hearing.
- [9.2.4.12 NMAC - Rp, SAA Rule No. 95-4.11, 6/30/2015]

**9.2.4.13 APPLICATION DENIAL OR APPROVAL:** The secretary of the aging and long-term services department shall approve or disapprove any application.

[9.2.4.13 NMAC - Rp, SAA Rule No. 95-4.13, 6/30/2015]

**9.2.4.14 APPROVAL OF PSA DESIGNATION:** All PSA designations for purposes of distribution of federal funds must be further approved by the U.S. administration on aging.

[9.2.4.14 NMAC - Rp, SAA Rule No. 95-4.13, 6/30/2015]

**9.2.4.15 APPEAL OF PSA DESIGNATION OR REVOCATION OF DESIGNATION:**

- A. An applicant for PSA designation whose application the department has denied or a PSA whose designation the department has decided to revoke may appeal pursuant to the procedures set forth in 9.2.11 NMAC.
  - B. Any applicant for "federally recognized" PSA designation whose application the department denies and who has been provided an appeal hearing and written decision by the department may appeal to the assistant secretary of the United States health and human services department administration on aging in writing within thirty (30) days of receipt of the department's written decision, pursuant to 45 C.F.R Section 1321.31 (2015).
- [9.2.4.15 NMAC - Rp, SAA Rule No. 95-4.14, 6/30/2015]

**9.2.4.16 DESIGNATED PSAs:**

- A. The designated PSAs are posted to the department's website.

**B.** All designation approvals shall be maintained in the appropriate department records.  
[9.2.4.16 NMAC – Rp, SAA Rule No. 95-4.15, 6/30/2015]

**HISTORY OF 9.2.4 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center:

SAA Rule No. 95-4, Designation of Planning and Service Areas, filed 4/13/95.

**History of Repealed Material:**

SAA Rule No. 95-4, filed 4/13/1995 - Repealed 6/30/2015