

**TITLE 9 HUMAN RIGHTS**  
**CHAPTER 2 AGE**  
**PART 5 AREA AGENCY ON AGING DESIGNATION**

**9.2.5.1 ISSUING AGENCY:** New Mexico Aging & Long Term Services Department (NMALTSB).  
[9.2.5.1 NMAC - Rp, SAA Rule No. 95-5.1, 6/30/2015]

**9.2.5.2 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.  
[9.2.5.2 NMAC - Rp, SAA Rule No. 95-5.2, 6/30/2015]

**9.2.5.3 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.  
[9.2.5.3 NMAC - Rp, SAA Rule No. 95-5.3, 6/30/2015]

**9.2.5.4 DURATION:** Permanent.  
[9.2.5.4 NMAC - Rp, SAA Rule No. 95-5.4, 6/30/2015]

**9.2.5.5 EFFECTIVE DATE:** June 30, 2015, unless a later date is cited at the end of a section.  
[9.2.5.5 NMAC - Rp, SAA Rule No. 95-5.5, 6/30/2015]

**9.2.5.6 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.  
[9.2.5.6 NMAC - Rp, SAA Rule No. 95-5.6, 6/30/2015]

**9.2.5.7 DEFINITIONS:** See 9.2.1.7 NMAC for definitions.  
[9.2.5.7 NMAC - Rp, SAA Rule No. 95-5.7, 6/30/2015]

**9.2.5.8 LEGAL REFERENCES:** [RESERVED]  
[9.2.5.8 NMAC - Rp, SAA Rule No. 95-5.8, 6/30/2015]

**9.2.5.9 NEED FOR DESIGNATION:** Applications for designation as an area agency on aging (AAA), under the Older Americans Act, must be solicited by the department when a new planning and service area (PSA) has been designated, or when an existing AAA has been de-designated, or when an existing AAA has voluntarily withdrawn its designation.  
[9.2.5.9 NMAC - Rp, SAA Rule No. 95-5.9, 6/30/2015]

**9.2.5.10 TYPE OF DESIGNATION:** The department may designate federally recognized AAAs under the auspices of the Older Americans Act, or may designate non-federally recognized AAAs under state authority. Non-federally recognized AAAs shall be established and shall operate under the same rules as federally recognized AAAs unless otherwise negotiated with the designated organization.  
[9.2.5.10 NMAC - Rp, SAA Rule No. 95-5.10, 6/30/2015]

**9.2.5.11 ELIGIBILITY AND PREFERENCE FOR DESIGNATION:**

- A.** An AAA may be any of the following:
- (1) An established aging organization which operates in a PSA;
  - (2) Any office or agency designated by the chief elected officials of a unit of general purpose local government to function only as an AAA;
  - (3) Any office or agency designated by the chief elected officials of any combination of units of general purpose local government to act on behalf of the combination for such purpose; or
  - (4) Any public or private non-profit organization in a PSA, or any separate unit within such organization, which can and will engage in the functions of an AAA;

**B.** No regional or local office of state government may be designated as an AAA.  
[9.2.5.11 NMAC - Rp, SAA Rule No. 95-5.11, 6/30/2015]

**9.2.5.12 APPLICATION PROCESS AND PROCEDURE:**

**A.** When it is necessary to solicit applications for area agency on aging designation pursuant to 9.2.5.9 NMAC, the department shall provide public notice of the need to solicit applications for designation and the process by which an entity can apply for such designation.

**B.** The department shall provide public notice as follows:

- (1) In newspapers of general circulation in the planning and service area for which AAA applications are being solicited;
- (2) On the department website;
- (3) Via electronic dissemination to New Mexico's aging network; and
- (4) In written notification to units of general purpose local government in the planning and service area.

[9.2.5.12 NMAC - Rp, SAA Rule No. 95-5.14, 6/30/2015]

**9.2.5.13 AREA AGENCY ON AGING REPLACEMENT REQUIREMENTS:** Any unsolicited application for AAA designation which, if approved, would result in the replacement of a formally designated area agency on aging or substantially impact the aging network within the PSA involved, must include:

**A.** Written indication of support, by resolution, of seventy-five percent (75%) of the governing bodies of municipalities and counties within the PSA boundaries;

**B.** Documentation that existing services can be substantially improved through the proposed change in designation; and

**C.** Assurance that no staff or board member of the applicant has served on the staff or board of the existing area agency on aging within the affected PSA, the department, or the U.S. administration on aging for a period of not less than two (2) years prior to the date of notification of application.

**D.** Other criteria deemed relevant by the department to the applicant's ability to carry out the duties of an AAA.

[9.2.5.13 NMAC - Rp, SAA Rule No. 95-5.12, 6/30/2015]

**9.2.5.14 REVIEW AND ASSESSMENT:** The department shall review each application for completeness and ability to meet the necessary requirements of designation. The entity being considered for AAA designation shall provide an opportunity for on-site review and assessment by the department to ensure that said entity has the capacity to perform the functions of an AAA, including the requirements set forth in 9.2.6 NMAC.

[9.2.5.14 NMAC - Rp, SAA Rule No. 95-5.13, 6/30/2015]

**9.2.5.15 DESIGNATION REQUIREMENT:** The department will designate an AAA to administer each PSA for which the department allocates funds under Title III of the Older Americans Act, supplemental state funds, or both. When designating a new AAA, the department shall give right of first refusal to unit(s) of general purpose local government if such unit can meet the requirements of 9.2.5.13 NMAC and the boundaries of the PSA are reasonably contiguous. If any unit of general purpose local government chooses not to exercise right of first refusal, the department shall then give preference to an established AAA or aging organization which operates in the PSA, and shall take into consideration the historical experience applicants have had in coordination, planning, and delivery of services for older adults. The department secretary shall approve or disapprove any applications for designation in writing.

[9.2.5.15 NMAC - Rp, SAA Rule No. 95-5.15, 6/30/2015]

**9.2.5.16 RIGHT TO APPEAL:** Applicants who have been denied designation may appeal as provided in 9.2.11 NMAC.

[9.2.5.16 NMAC - Rp, SAA Rule No. 95-5.18, 6/30/2015]

**9.2.5.17 DESIGNATED AAAs:**

**A.** The designated AAAs are posted to the department's web site.

**B.** All designation approvals shall be maintained in the appropriate department records.

[9.2.5.17 NMAC - Rp, SAA Rule No. 95-5.19, 6/30/2015]

**HISTORY OF 9.2.5 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center: SAA Rule No. 95-5, Area Agency Designation, filed 4/13/1995.

**History of Repealed Material:**

SAA Rule No. 95-5, filed 4/13/1995 - Repealed 6/30/2015.