

## **SUBCHAPTER 05F -PLANNING AND SERVICE AREA AND AREA AGENCY DESIGNATION**

### **SECTION .0100 - DIVISION OF AGING DESIGNATION AUTHORITY**

#### **10A NCAC 05F .0101 PLANNING AND SERVICE AREA AND AREA AGENCIES ON AGING**

The Division of Aging shall divide the state into distinct planning and service areas and designate an area agency on aging within each planning and service area.

*History Note: Authority G.S. 143B-181.1(c); 42 U.S.C. 3001; Ex. Order 25, February 21, 1986; Eff. November 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

#### **10A NCAC 05F .0102 WITHDRAWAL OF AREA ON AGING DESIGNATION**

Area agency designation may be withdrawn whenever, after reasonable notice and opportunity for a hearing, it is determined that:

- (1) An area agency fails to perform mandated functions; or
- (2) An area plan or plan amendment is not approved; or
- (3) There is substantial failure in the provisions or administration of an approved area plan to comply with any provision of the Older Americans Act, federal regulations, or state rules outlined by the Division; or
- (4) Activities of the area agency are inconsistent with the statutory mission prescribed in the Act or conflict with the requirement in the Act that it function only as an area agency on aging.

*History Note: Authority G.S. 143B-181.1(c); 45 C.F.R. Part 132; Eff. November 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

### **SECTION .0200 - PLANNING AND SERVICE AREA AND AREA AGENCY ON AGING REQUIREMENTS**

#### **10A NCAC 05F .0201 PLANNING AND SERVICE AREA REQUIREMENTS**

- (a) A PSA designated after March 1, 1993 shall have a general population of at least 100,000.
- (b) PSAs shall contain more than one county and shall be inclusive of all municipalities within the proposed PSA boundary.
- (c) PSA designation shall be effective on July 1.

*History Note: Authority G.S. 143B-181.1(c); 42 U.S.C. 3001; Ex. Order 25, February 21, 1986; Eff. November 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

#### **10A NCAC 05F .0202 AREA AGENCY ON AGING REQUIREMENTS**

- (a) A public or private nonprofit agency or organization shall be designated as an area agency on aging by the Division of Aging to serve each planning and service area in the state.
- (b) Area agencies on aging shall provide planning and administrative activities and a regional ombudsman program as specified through the Older Americans Act, North Carolina Statutes, and Division of Aging state rules.
- (c) Area agency on aging designation shall be effective July 1.

*History Note: Authority G.S. 143B-181.1(c); 143B, Article 3, Part 14D; 45 C.F.R. Part 1321; 42 U.S.C. 3001; Eff. November 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

### **SECTION .0300 - APPLICATION FOR PLANNING SERVICE AREA DESIGNATION AND PRE-HEARING REVIEW**

#### **10A NCAC 05F .0301 APPLICATION DUE DATE FOR PLANNING AND SERVICE AREA DESIGNATION**

The application for planning and service area designation shall be received by the Division of Aging no later than August 1 for designation to become effective on July 1 of the following year.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001; Ex. Order 25, February 21, 1986;  
Eff. November 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **10A NCAC 05F .0302 APPLICATION CONTENT FOR PLANNING AND SERVICE AREA DESIGNATION**

The application shall provide the following:

- (1) Listing of proposed PSA counties and a signed resolution from the Chairman of the Board of Commissioners in each county endorsing the proposed PSA, supporting the proposed area agency on aging arrangement and certifying the availability of local match for AAA federal/state funding.
- (2) Identification of the unit of local government, regional planning authority, or Indian reservations responsible for developing the application and individual responsible for coordinating application with the Division.
- (3) Narrative discussion which states the necessity of the designation and describes benefits to identified counties.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001; Ex. Order 25, February 21, 1986;  
Eff. November 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **10A NCAC 05F .0303 PRE-HEARING REVIEW ON PLANNING AND SERVICE AREA DESIGNATION**

(a) The Division shall provide a copy of the designation application, relevant demographic and funding data and other pertinent information to area agencies whose PSA boundaries would be affected within 10 working days of receipt of the application. Area agencies shall have the opportunity to comment on the application prior to public hearings on PSA designation.

(b) Prior to conducting public hearings on PSA designation the Division shall provide aging interests in each county of PSAs affected by the application with a copy of the application, other information, and data deemed appropriate by the Division. Local aging interests shall have the opportunity to provide written comments to the Division prior to public hearings. Local aging interests shall include the following:

- (1) boards of county commissioners;
- (2) county managers;
- (3) area agency advisory councils;
- (4) funded and non-funded aging service providers;
- (5) long term care providers and advocacy groups;
- (6) senior centers;
- (7) local Alzheimer's support organizations and other advocates for older persons and caregivers;
- (8) Lead Regional Organization directors;
- (9) Joint Regional Forum.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001; Ex. Order 25, February 21, 1986;  
Eff. November 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

### **SECTION .0400 - DIVISION OF AGING PUBLIC HEARINGS ON PLANNING AND SERVICE AREA DESIGNATION**

#### **10A NCAC 05F .0401 SCHEDULING OF PUBLIC HEARINGS ON PLANNING/SERVICE AREA DESIGNATION**

Prior to designating PSAs, public hearings shall be held for affected parties. The Division shall schedule hearings in locations which are convenient to each county in affected PSAs so as to encourage full participation by county and regional aging interests. Within no less than 15 days prior to the scheduled hearing, the aging interests, as specified in Rule .0303 of this Subchapter, shall be notified in writing with regards to the date, time and location of the public hearing.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001; Ex. Order Number 25, February 21, 1986;  
Eff. November 1, 1993;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

**10A NCAC 05F .0402 PREHEARING REVIEW COMMENTS**

The Division shall provide a written summary of comments received through the pre-hearing review at the public hearing.

*History Note: Authority G.S. 143B-181.1(c); 42 U.S.C. 3001; Ex. Order 25, February 21, 1986; Eff. November 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

**10A NCAC 05F .0403 NOTIFICATION OF DECISION ON PLANNING AND SERVICE AREA DESIGNATION**

Comments received through the pre-hearing review and public hearings shall be considered in reaching a PSA designation decision. Upon consultation with the Department of Health and Human Services, the Division will issue a decision and notify affected area agencies and aging interests specified in Rule .0303 of this Subchapter in writing. The Division will provide the Administration on Aging with written notification of designation decisions.

*History Note: Authority G.S. 143B-181.1(c); 42 U.S.C. 3001; Ex. Order 25, February 21, 1986; Eff. November 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

**10A NCAC 05F .0404 PLANNING/SERVICE AREA DESIGNATION INITIATED BY THE DIVISION OF AGING**

If PSA designation is initiated by the Division, the Division shall provide for pre-hearing reviews and public hearings by distributing a plan for proposed PSA designation and other pertinent information and data to affected area agencies and local aging interests specified in Rule .0303 of this Subchapter and scheduling public hearings as specified in Rule .0401 of this Subchapter. PSA designation will be initiated by the Division if:

- (1) With input from the Department of Health and Human Services and others, the Division determines that reconfiguration of PSAs is necessary for the State and area agencies to effectively carry out responsibilities mandated through the Older Americans Act.
- (2) A county or counties in a PSA affected by withdrawal of AAA designation propose to join another PSA, as discussed in Rule .0706 of this Subchapter.

*History Note: Authority G.S. 143B-181.1(c); 42 U.S.C. 3001; Ex. Order 25, February 21, 1986; Eff. November 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

**SECTION .0500 - APPLICATION FOR AREA AGENCY ON AGING DESIGNATION AND PRE-HEARING REVIEW**

**10A NCAC 05F .0501 AREA AGENCY ON AGING DESIGNATION CRITERIA**

- (a) Area agency on aging designation shall occur after the Division has issued a decision on PSA designation, as specified in Rule .0403 of this Subchapter.
- (b) The unit of general purpose local government, regional planning authority or Indian reservation responsible for development of the PSA designation application shall be responsible for completing the application for area agency on aging structure and submitting it to the Division.
- (c) If PSA designation is initiated by the Division of Aging, the Division shall receive input from the chairman of the board of commissioners in each county of the PSA prior to designating an area agency on aging.

*History Note: Authority G.S. 143B-181.1(c); 42 U.S.C. 3001; Eff. November 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

**10A NCAC 05F .0502 APPLICATION CONTENT FOR AREA AGENCY ON AGING DESIGNATION**

The Division of Aging will provide a format which addresses the following:

- (1) Name of proposed area agency organization, if possible.

- (2) Description of area agency methodology, including staffing responsibilities, to meet federal and state requirements which include the following:
  - (a) Working with elected officials to establish one or more focal points on aging in each county.
  - (b) Establishing an area agency advisory council for the purpose of carrying out advisory functions which further the area agency's mission of developing and coordinating a community-based services system for all older adults in the PSA.
  - (c) Developing an area plan following procedures specified by the Division of Aging and conducting a public hearing(s) on the plan prior to submission to the Division.
  - (d) Serving as a public advocate for the development or enhancement of community based service systems through the coordination of plans and activities with public and private agencies and organizations and providing leadership in assisting counties in the targeting of resources to meet the needs of older adults with the greatest economic or social needs, with particular attention to low income minorities.
  - (e) Monitoring community service providers as specified in the Home and Community Care Block Grant County agreement assessment format.
  - (f) Providing Home and Community Care Block Grant management information system and services reimbursement functions as specified in the Home and Community Care Block Grant Manual for Community Service Providers.
  - (g) Administering a regional ombudsman program, as required in G.S. 143B, Part 14D. The proposal shall describe how functions specified in G.S. 143B-181.19 will be carried out.
- (3) Organization chart indicating that the area agency shall function only to administer programs for older persons.
- (4) Proposed line item or total project budget for the area agency which includes identification of funding sources to support the budget.

*History Note:* Authority G.S. 143B-181.1(c); 45 C.F.R. Part 1321; 42 U.S.C. 3001; Eff. November 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **10A NCAC 05F .0503 PRE-HEARING REVIEW ON AREA AGENCY ON AGING DESIGNATION**

Within no less than 15 days prior to conducting public hearing on AAA designation, the Division shall provide area agencies on aging and local aging interests who are affected by the PSA designation decision with a copy of the proposed area agency structure format. These area agencies and local aging interests shall have the opportunity to comment on the proposed structure prior to public hearings. Local aging interests are identified in Rule .0303 of this Subchapter.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001; Eff. November 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

### **SECTION .0600 - DIVISION OF AGING PUBLIC HEARINGS ON AREA AGENCY ON AGING DESIGNATION**

#### **10A NCAC 05F .0601 SCHEDULING OF PUBLIC HEARINGS ON AREA AGENCY ON AGING DESIGNATION**

Prior to designating AAAs, the Division shall conduct public hearings. The Division shall schedule hearings which are convenient to each county in affected PSAs. Within no less than 15 days prior to the scheduled hearing, the aging interests, as specified in Rule .0303 of this Subchapter, shall be notified in writing with regards to the date, time and location of the public hearing.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001; Eff. November 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **10A NCAC 05F .0602 PREHEARING REVIEW COMMENTS**

The Division shall provide a written summary of comments received through the pre-hearing review at the public hearings.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001;  
Eff. November 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

**10A NCAC 05F .0603 NOTIFICATION OF DECISION ON AREA AGENCY ON AGING DESIGNATION**  
Comments received through the pre-hearing review and public hearings shall be considered in reaching an AAA designation decision. Upon consultation with the Department of Health and Human Services, the Division will issue a decision and notify affected area agencies and aging interests listed in Rule .0303 of this Subchapter.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001;  
Eff. November 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

### **SECTION .0700 - WITHHOLDING AREA FUNDS OR WITHDRAWING AREA AGENCY ON AGING DESIGNATION**

**10A NCAC 05F .0701 NOTIFICATION OF IMPENDING ACTION TO WITHHOLD AREA FUNDS**  
Within no less than 15 days prior to withholding funds the Division of Aging shall provide the area agency notification of the impending action via certified mail. The notification shall contain the following:

- (1) Reasons for initiating the withholding of funds.
- (2) Date that funds will be withheld, pending request for public hearing.
- (3) Opportunity for requesting, in writing, a public hearing concerning the impending action. Such request shall be within five days of receiving the notice.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001;  
Eff. November 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

**10A NCAC 05F .0702 PUBLIC HEARING/WITHHOLDING AREA FUNDS**  
If the area agency requests a hearing, the Division shall, within 10 days of receipt of the request, schedule a public hearing in the affected PSA and notify the area agency on aging and local aging interests specified in Rule .0303 of this Subchapter.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001;  
Eff. November 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

**10A NCAC 05F .0703 DECISION ON WITHHOLDING AREA FUNDS**  
Comments received through any public hearing shall be considered by the Division in reaching a final decision. An area agency may appeal the Division's decision to withhold funding as specified in Rule .0801 of this Subchapter.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001;  
Eff. November 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

### **10A NCAC 05F .0704 NOTICE/IMPENDING ACTION/WITHDRAW AREA AGENCY ON AGING DESIGNATION**

An area agency shall be notified via certified mail no less than 30 days prior to withdrawing area agency designation.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001;  
Eff. November 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

## **10A NCAC 05F .0705 PUBLIC HEARING/WITHDRAWAL OF AREA AGENCY ON AGING DESIGNATION**

Upon determination of cause for withdrawing area agency on aging designation, as specified in Rule .0102 of this Subchapter, a public hearing shall be scheduled and conducted within the planning and service area of the area agency on aging. Within no less than 15 days prior to the scheduled hearing, the aging interests, as specified in Rule .0303 of this Subchapter, shall be notified in writing with regards to the date, time, and place of the public hearing.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001;  
Eff. November 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

## **10A NCAC 05F .0706 NOTIFICATION OF DECISION TO WITHDRAW AREA AGENCY DESIGNATION**

(a) Comments received through the public hearing shall be considered in reaching a decision. Upon consultation with the Department of Health and Human Services, the Division will issue a decision as to whether or not to withdraw AAA designation. The area agency on aging and local aging interests, as specified in Rule .0303 in this Subchapter, shall be notified in writing of the Division's decision. An area agency may appeal the Division's decision to withdraw area agency on aging designation, as specified in Rule .0801 of this Subchapter.

(b) If AAA designation is withdrawn, the Division shall meet with the chairman of the board of commissioners in each county of the PSA. Based upon the decision of the counties, the Division will initiate the designation of one or more PSAs or initiate the designation of an area agency on aging.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001;  
Eff. November 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

## **SECTION .0800 - APPEAL OF DIVISION OF AGING DECISION**

### **10A NCAC 05F .0801 CONTESTED CASE**

Area agencies whose funding has been withheld; area agencies whose designation has been withdrawn; area agencies on aging and other parties adversely affected by a Division of Aging PSA designation decision; or a public agency or private non-profit organization whose application for AAA designation is disapproved by the Division of Aging may petition the Office of Administrative Hearings for a contested case hearing. Provisions for contested case hearings are specified in G.S. 150B, Article 3.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001;  
Eff. November 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

### **10A NCAC 05F .0802 APPEAL TO COMMISSIONER ON AGING**

An area agency on aging whose designation has been withdrawn or parties who are adversely affected by a Division of Aging PSA designation decision and who are aggrieved by the final decision in a contested case may appeal the decision to the Commissioner on Aging within 30 days following the receipt of the state's decision in lieu of filing a petition for judicial review in state superior court.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001;  
Eff. November 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

### **10A NCAC 05F .0803 JUDICIAL REVIEW**

Area agencies whose funding has been withheld or a public agency or private non-profit organization whose application for AAA designation is disapproved by the Division of Aging and are aggrieved by the final decision in a contested case may file a petition for judicial review, as provided in G.S. 150B, Article 4.

*History Note:* Authority G.S. 143B-181.1(c); 42 U.S.C. 3001;  
Eff. November 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

