

TITLE 13 INSURANCE
CHAPTER 8 INSURANCE POLICIES AND RATES
PART 2 RATE FILINGS BY INSURERS AND RATE SERVICE ORGANIZATIONS

13.8.2.1 ISSUING AGENCY: New Mexico Public Regulation Commission Insurance Division.
[7-1-97; 13.8.2.1 NMAC - Rn & A, 13 NMAC 8.2.1, 1-15-02; A, 3-1-06]

13.8.2.2 SCOPE: This rule applies to all rate and rate-related rules filings made on or after the effective date of this rule pursuant to Chapter 59A, Article 17 NMSA 1978, including but not limited to rate filings applicable to risks covered through assigned risk pools and similar residual market plans.
[7-1-97; 13.8.2.2 NMAC - Rn & A, 13 NMAC 8.2.2, 1-15-02; A, 3-1-06]

13.8.2.3 STATUTORY AUTHORITY: Sections 59A-2-9, 59A-17-2, 59A-17-3, 59A-17-4, 59A-17-5, 59A-17-6.1, 59A-17-6.2, 59A-17-16, 59A-17-17, 59A-17-28, 59A-17-29 and 59A-32-13 NMSA 1978.
[7-1-97; 13.8.2.3 NMAC - Rn & A, 13 NMAC 8.2.3, 1-15-02; A, 3-1-06; A, 10-1-07]

13.8.2.4 DURATION: Sections 1 through 27 and 29 of 13.8.2 NMAC are permanent. 13.8.2.28 NMAC shall expire on October 1, 2010.
[7-1-97; 13.8.2.4 NMAC - Rn, 13 NMAC 8.2.4, 1-15-02; A, 10-1-07]

13.8.2.5 EFFECTIVE DATE: July 1, 1997, unless a later date is cited at the end of a section.
[7-1-97; 13.8.2.5 NMAC - Rn, 13 NMAC 8.2.5, 1-15-02; A, 3-1-06]

13.8.2.6 OBJECTIVE: The purpose of this rule is to provide standards, procedures, and methods which fairly and appropriately meet the statutory mandates.
[7-1-97; 13.8.2.6 NMAC - Rn, 13 NMAC 8.2.6, 1-15-02]

13.8.2.7 DEFINITIONS:

A. Advisory filing means any filing by a licensed advisory organization within the scope of its license, solely for informational purposes and such limited uses as provided in 13.8.2.20 NMAC. The term includes a rate filing limited to pure premium rates, supplementary rates, and supporting data developed and trended as appropriate.

B. Advisory organization has the meaning given in Section 59A-17-4 NMSA 1978.

C. Credible or credibility in connection with statistical data is used in conformance with generally-accepted actuarial standards.

D. Commercial insurance has the meaning given in Section 59A-17-4 NMSA 1978.

E. Expenses include acquisition expenses, field supervision and collection expenses, general expenses, taxes, licenses and fees.

F. Filing means any submission to the superintendent to establish or revise rates.

G. Line of business means a line of business as shown in the annual statement to the superintendent.

H. Pure premium rate means that portion of a rate which represents the loss cost per unit of exposure, and may include loss adjustment expense.

I. Regular business day means every day except Saturday, Sunday and official state government holidays.

J. Regular business hours are 8:00 a.m. to 5:00 p.m., mountain standard or mountain daylight time, whichever is applicable, on regular business days; provided that regular business hours may be shortened on certain days without notice by official action of the governor or the public regulation commission.

K. Supplementary rate information has the meaning given in Section 59A-17-4 NMSA 1978.

L. Supporting data means data and information which justifies, supports, interprets, describes, explains or underlies any rate or supplementary rate information, including but not limited to data the superintendent requires or may require pursuant to this rule.

M. Reference filing as used in 13.8.2 NMAC and in Paragraph C of Section 59A-17-9 NMSA 1978 means a filing by an insurer to adopt a legally effective filing by an advisory organization to which the insurer is a member, a subscriber or an affiliate.

[7-1-97; 13.8.2.7 NMAC - Rn & A, 13 NMAC 8.2.7, 1-15-02; A, 3-1-06; A, 10-1-07]

[See Section 59A-17-4 NMSA 1978 for additional definitions]

13.8.2.8 FILING PROCEDURES:

- A.** Every filing shall be made by submitting it to the superintendent in accordance with 13.8.2.8 NMAC.
- B.** Filings shall be made separately from policy form filings.
- C.** Filings may be made by mail, courier, the national association of insurance commissioners' system for electronic rate and forms filing (SERFF) or in person and shall be addressed to the superintendent.
- D.** Paper filings shall be submitted in an original and one copy, along with a self-addressed stamped envelope.
- E.** All filings shall be submitted with the appropriate current completed transmittal documents in substantially the format of the national association of insurance commissioners' uniform transmittal documents, which are available online at www.naic.org.
- (1) The *property and casualty transmittal* document shall include:
- (a) group name and "NAIC" number;
 - (b) company name, domicile, "NAIC" number and "FEIN" number;
 - (c) company tracking number;
 - (d) contact information of filer or corporate officer, including: name and address; title; telephone numbers; fax numbers and e-mail address;
 - (e) signature and printed name of authorized filer;
 - (f) type and sub-type of insurance;
 - (g) state specific product code, if applicable;
 - (h) company program title;
 - (i) filing type;
 - (j) effective date requested, including: new or renewal;
 - (k) a statement indicating whether the filing is a reference filing, including the reference organization name and reference organization number and title, if applicable;
 - (l) company's date of filing;
 - (m) status of filing in domicile;
 - (n) company tracking number;
 - (o) filing description; and
 - (p) the appropriate filing fees, including check number and fee amount, if applicable.
- (2) The *rate/rule filing schedule* document shall include:
- (a) company tracking number;
 - (b) corresponding company tracking number of form filing, if applicable;
 - (c) a statement indicating whether the filing is for a rate increase or rate decrease or is rate neutral;
 - (d) a description of the filing method;
 - (e) a description of the rate change proposed by the company, including: company name, overall indicated change, when applicable, overall percentage rate impact; written premium change for the program; number of policyholders affected for the program; written premium for the program; maximum percentage change and minimum percentage change;
 - (f) overall percentage of last rate revision;
 - (g) effective date of last rate revision;
 - (h) a description of the filing method of the company's last filing; and
 - (i) a statement of the rule number or page number submitted for review, including whether the filing is new, a replacement or a withdrawal and the previous state filing number.
- F.** If the filing includes a loss cost multiplier, the filer shall also submit the appropriate current completed national association of insurance commissioners' loss cost transmittal documents which are available online at www.naic.org.
- (1) The *lost cost data entry* document shall include:
- (a) company tracking number;
 - (b) name of advisory organization and reference or item filing number if the filing is an adoption of an advisory organization loss cost filing;

- (c) company name and “NAIC” number;
 - (d) product coding matrix for line of business (type of insurance) and line of insurance (sub-type of insurance);
 - (e) a statement describing coverage, indicated percentage rate level change, requested percentage rate level change, and for loss costs only: expected loss ratio; loss cost modification factor; selected loss cost multiplier; expense constant, if applicable; and company current loss cost multiplier;
 - (f) a five year rate change history, including: year; policy count; percentage of change; effective date; state earned premium; incurred losses, state loss ratio and countrywide loss ratio;
 - (g) a statement of selected provisions for expense constants, including: total production expense; general expense; taxes, license and fees; underwriting profit and contingencies; other expenses; and the total of all figures listed;
 - (h) a statement of whether the company will apply lost cost factors to future filings; and
 - (i) a statement of the estimated maximum rate increase for any insured.
- (2) The *expense constant supplement* document shall include:
- (a) company tracking number;
 - (b) corresponding company tracking number of form filing, if applicable;
 - (c) a description of development of expected loss ratio;
 - (d) a statement of selected overall, variable, and fixed provisions for total production expense; general expense; taxes, license and fees; underwriting profit and contingencies; other expenses; and the total of all figures listed;
 - (e) a statement of the expected loss ratio and the variable expected loss ratio;
 - (f) a statement of the formula expense constant and the formula variable loss cost multiplier;
 - (g) a statement of the selected expense constant and the selected variable loss cost multiplier;
 - (h) an explanation of any differences between Subparagraphs (f) and (g) of Paragraph (2) of Subsection F of 13.8.2.8 NMAC; and
 - (i) a statement of the rate level change for the coverage to which the *expense constant supplement* document applies.
- (3) The *loss cost filing for other than workers’ compensation* document shall include:
- (a) company tracking number;
 - (b) corresponding company tracking number of form filing, if applicable;
 - (c) loss cost reference filing number or a statement that the filing is an independent rate filing;
 - (d) a statement that:
 - (i) the insurer files to have its loss cost multipliers and, if utilized, expense constants be applicable to future revisions of the advisory organization’s prospective loss costs for this line of insurance; the insurer’s rates will be the combination of the advisory organization’s prospective loss costs and the insurer’s loss cost multipliers and if utilized, expense constants specified in the attachments; the rates will apply to policies written on or after the effective date of the advisory organization’s prospective loss costs; this authorization is effective until disapproved by the commissioner, or until amended or withdrawn by the insurer; or
 - (ii) the insurer files to have its loss cost multipliers and, if utilized, expense constants be applicable only to the identified advisory organization reference filing;
 - (e) a statement of the line, sub line, coverage, territory, class or combination thereof to which the *loss cost filing* document applies;
 - (f) a description of loss cost modification;
 - (g) if expense constants are utilized, the filer shall attach *expense constant supplement* or other supporting information and shall not include the items listed in Subparagraphs (h) through (l) of Paragraph (3) of Subsection F of 13.8.2.8 NMAC;
 - (h) a description of development of expected loss ratio, including selected provisions for:
 - (i) total production expense;
 - (ii) general expense;
 - (iii) taxes, licenses and fees;
 - (iv) underwriting profit and contingencies;
 - (v) other expense, and
 - (vi) total of all figures listed;
 - (i) a statement of expected loss ratio;

- (j) a statement of the company formula loss cost multiplier;
- (k) a statement of the company selected loss cost multiplier; and
- (l) a statement of the rate level change for the coverage(s) to which the *loss cost filing* document

applies.

(4) The *loss cost filing for workers' compensation* document shall include:

- (a) company tracking number;
- (b) corresponding form filing number;
- (c) loss cost reference filing number or a statement that the filing is an independent rate filing;
- (d) a statement that:

(i) the insurer files to have its loss cost multipliers and, if utilized, expense constants be applicable to future revisions of the advisory organization's prospective loss costs for this line of insurance; the insurer's rates will be the combination of the advisory organization's prospective loss costs and the insurer's loss cost multipliers and if utilized, expense constants specified in the attachments; the rates will apply to policies written on or after the effective date of the advisory organization's prospective loss costs; this authorization is effective until disapproved by the commissioner, or until amended or withdrawn by the insurer; or

(ii) the insurer files to have its loss cost multipliers and, if utilized, expense constants be applicable only to the identified advisory organization reference filing;

(e) applicable class codes;

(f) description of loss cost modification;

(g) if expense constants are utilized, the filer shall attach *expense constant supplement* or other supporting information and shall not include the items listed in Subparagraphs (h) through (o) of Paragraph (4) of Subsection F of 13.8.2.8 NMAC;

(h) a description of development of expected loss and loss adjustment expense ratio, including selected provisions for:

- (i) total production expense;
- (ii) general expense;
- (iii) taxes, licenses and fees;
- (iv) underwriting profit and contingencies;
- (v) other expenses, and
- (vi) total of all figures listed;

(i) a statement of expected loss ratio;

(j) a statement of the overall impact of expense constant and minimum premiums;

(k) a statement of the overall impact of size-of-risk discounts plus expense graduation

recognition in retrospective rating;

(l) a statement of the company formula loss cost multiplier;

(m) a statement of the company selected loss cost multiplier;

(n) a statement disclosing whether the filer is amending its minimum premium formula; and

(o) a statement disclosing whether the filer is changing its premium discount schedules.

(5) If a filer desires acknowledgment of receipt, a suitable receipt shall be submitted together with a second self-addressed, stamped envelope. Such receipts are returned as a courtesy and accommodation to the filer. Failure to return a receipt, even though requested in accordance with Paragraph (5) of Subsection A of 13.8.2.8 NMAC, shall not stay, toll, extend or otherwise affect any time period, or limit or otherwise affect any action the superintendent may take.

(6) Filings shall be date stamped as of the date received. Each filing shall be reviewed upon receipt for compliance with procedural requirements. If found to comply, the filing shall be accepted as of the date received. If found not to comply, the filing shall be returned to the filer or the filer shall be otherwise notified.

(7) Filings not received during regular business hours on a regular business day shall be deemed received on the next regular business day.

G. In computing periods of time, the last day shall be counted and the first day shall not be counted. Saturdays, Sundays and holidays shall be counted. If the last day of a time period falls on a day which is not a regular business day, the time period shall be extended to the close of business on the next regular business day.

H. Every filing shall be open to public inspection during regular business hours. A copy of any filing or a designated portion thereof may be obtained by making request to the superintendent and paying the charge he shall prescribe.

I. Any filing may be withdrawn at any time prior to the time it becomes effective. In the interest of efficiency, filers should notify the superintendent of withdrawals at the earliest possible date.

J. Filings subject to prior approval may contain a request to become effective on any specified date on or after their date of filing.

[7-1-97; 13.8.2.8 NMAC - Rn, 13 NMAC 8.2.8, 1-15-02; A, 3-1-06; A, 10-1-07]

13.8.2.9 AMENDING FILINGS: Any pending filing may be amended, provided that the entire filing, including the amendment, shall be deemed made as of the date the amendment was filed, unless waived by the superintendent.

[7-1-97; 13.8.2.9 NMAC - Rn, 13 NMAC 8.2.9, 1-15-02; A, 3-1-06]

13.8.2.10 FILINGS OF CONFIDENTIAL MATERIAL: Materials that are required by statute to be kept confidential or that are considered by the filer to be trade secrets shall be filed separately from materials that are required to be open to public inspection.

A. Filings of underwriting guidelines pursuant to Section 59A-17-5.1 NMSA 1978 shall be submitted with the following words in bold uppercase type on the heading of the cover letter: **CONFIDENTIAL UNDERWRITING GUIDELINES.**

B. Filings of materials other than underwriting guidelines or insurance scoring models that the filer considers to be a trade secret shall be submitted with the following words in bold uppercase type on the heading of the cover letter: **REQUESTED CONFIDENTIAL MATERIALS.** The superintendent shall advise the filer within 30 days whether such material shall be open to public inspection. The superintendent shall keep such materials closed from public inspection prior to his determination on their confidentiality.

[7-1-97; 13.8.2.10 NMAC - Rn, 13 NMAC 8.2.10, 1-15-02; A, 3-1-06; A, 10-1-07]

13.8.2.11 NOTIFICATION: The superintendent shall notify by mail or electronic media the filer and each other party of his approval or disapproval of each filing. Where a filing is disapproved, the superintendent shall state the reasons for disapproval.

[7-1-97; 13.8.2.11 NMAC - Rn, 13 NMAC 8.2.11, 1-15-02; A, 3-1-06]

13.8.2.12 RIGHT TO HEARING: Any person aggrieved by any action, threatened action or failure to act of the superintendent in connection with a filing has the right to request a hearing pursuant to Section 59A-17-34A NMSA 1978. The superintendent may grant or deny the request.

[7-1-97; 13.8.2.12 NMAC - Rn, 13 NMAC 8.2.12, 1-15-02]

13.8.2.13 REVIEW OF FINAL ORDER:

A. Reconsideration. The filer or any other party aggrieved by the superintendent's final order deciding the issues following a hearing, or refusing to grant a hearing, pursuant to 13.8.2.12 NMAC, may, in addition to other remedies provided by law, move for reconsideration, stating in detail the basis therefor. Any motion for reconsideration shall be filed within fifteen days of the superintendent's final order, and is barred thereafter. A motion for reconsideration is an optional remedy, and need not be exhausted as a condition of further administrative appeal.

B. Appeal. The filer or any party aggrieved by the superintendent's final order deciding the issues following hearing, or refusing to grant a hearing, pursuant to 13.8.2.12 NMAC, may request a review by the public regulation commission pursuant to this section.

(1) Following exhaustion of any right to hearing before the superintendent, the filer or any other aggrieved party may request the public regulation commission to review any final order of the superintendent made pursuant to 13.8.2.12 NMAC.

(2) Every such request for review shall be made within thirty days after the superintendent's final order, and is barred thereafter; provided, that if a motion for reconsideration is timely filed with the superintendent, a request for review shall be made within thirty days after the date the motion is filed.

(3) The public regulation commission's review shall be on the record before the superintendent, unless the public regulation commission in its discretion deems it necessary or appropriate to supplement the evidence through public hearing or otherwise; provided, that the scope of review shall be limited to the issues raised before the superintendent; and further provided, that the public regulation commission may summarily affirm or reverse the superintendent without hearing.

(4) Every request for review shall state with particularity the grounds upon which review is sought, and shall itemize each alleged error with citations to the applicable portions of the official record. If the transcript of record is not available despite appellant's prompt request therefor, citations shall be filed within ten days after the transcript first becomes available in substantially complete form. In any event, the request for review, with or without record citations must be timely filed within the time period specified in Paragraph (2) of Subsection B of 13.8.2.13 NMAC.

(5) The costs of transcribing the record shall be borne by the appellant.
[7-1-97; 13.8.2.13 NMAC - Rn & A, 13 NMAC 8.2.13, 1-15-02]

13.8.2.14 COMPANY FILINGS:

A. Any insurer may make rates and rate filings on its own behalf in accordance with this section and other applicable portions of this rule.

B. Any insurer may file at any time any rate or supplementary rate information applicable to any line or part of a line of property and casualty insurance business for which the insurer is certificated.

C. Every company filing shall be accompanied by the exhibits required under 13.8.2.17 NMAC.

D. Every company filing, except filings pursuant to 13.8.2.16 NMAC, shall comply with 13.8.2.18 NMAC.

E. The review period for a company filing begins when the filing is received by the superintendent, unless delayed for amendment or lack of sufficient information pursuant to Chapter 59A, Article 17 NMSA 1978 and 13.8.2 NMAC.

F. Except as provided in 13.8.2.25 NMAC, company filings based on an advisory organization advisory loss cost filing may not be used until either the superintendent has notified the advisory organization that the advisory filing is acceptable or the statutory review period has expired with no action, whichever is sooner.
[7-1-97; 13.8.2.14 NMAC - Rn & A, 13 NMAC 8.2.14, 1-15-02; A, 3-1-06; A, 10-1-07]

13.8.2.15 PERMISSIBLE BASES FOR COMPANY FILINGS: Company filings shall meet all statutory rate standards and take into consideration all applicable rate factors. Subject to the foregoing sentence, an insurer may base a company rate filing on:

A. the insurer's own experience in the particular line of business, including but not limited to premiums, investment income, loss experience and actual expenses;

B. average pure premium rates and supporting data, such as loss experience, developed and trended as appropriate, from an advisory organization advisory filing, together with the insurer's own experience in the particular line of business, including but not limited to premiums, investment income and actual expenses, as provided in 13.8.2.20 NMAC;

C. other company ratemaking methods, for limited markets, as provided in 13.8.2.16 NMAC; or

D. any other method meeting statutory standards which has been submitted to and approved by the superintendent prior to the rate filing.

[7-1-97; 13.8.2.15 NMAC - Rn, 13 NMAC 8.2.15, 1-15-02; A, 10-1-07]

13.8.2.16 OTHER COMPANY FILING METHODS FOR LIMITED MARKETS: The superintendent may authorize an insurer to make a company rate filing on any basis meeting statutory rate standards, including but not limited to ratemaking by reference to an approved New Mexico filing of another company, or any other appropriate method, where the insurer demonstrates to the superintendent's satisfaction that:

A. the predicted New Mexico premium volume for the line or part of a line of business is so minimal that development of a rate is economically unfeasible; and

B. there is a need or demand for such coverage in New Mexico which will be inadequately or uneconomically served if the filer does not file a rate and make a market in the line or part of a line of business.

[7-1-97; 13.8.2.16 NMAC - Rn, 13 NMAC 8.2.16, 1-15-02]

13.8.2.17 REQUIRED EXHIBITS:

A. Rate filings that require supporting information shall include the following exhibits for each line of business, showing by individual insurer for the three most recently-completed consecutive calendar or calendar-accident years:

(1) actual direct written premiums;

(2) actual direct earned premiums;

- (3) actual direct paid losses;
 - (4) the change in direct loss reserves during the year, including:
 - (a) reported reserves, based on actual reserves; and
 - (b) incurred but not reported reserves, based on separate calculations or equivalent to the change in reported reserves;
 - (5) incurred losses, derived from the foregoing;
 - (6) underlying data used to calculate any loss development factors and trend factors included in the filing, including but not limited to a description of the basis for and methods used to establish such factors;
 - (7) actual expenses for each of the following categories:
 - (a) commissions;
 - (b) other acquisition expenses;
 - (c) general expenses; and
 - (d) taxes, licenses and fees;
 - (8) investment income from each of the following sources, including method of calculation, allocated to the specific line of business:
 - (a) unearned premium reserves;
 - (b) loss reserves, including but not limited to IBNR;
 - (c) loss adjustment expense reserves;
 - (d) any contingency reserves; and
 - (e) surplus held in conjunction with the line of business; and
 - (9) average credit or debit written in conjunction with any schedule rating plan or similar plan.
- B.** If not shown in the transmittal documents, the filing shall contain an exhibit which displays the maximum percentage of rate increase that any policyholder may experience as a result of the filing. [7-1-97; 13.8.2.17 NMAC - Rn, 13 NMAC 8.2.17, 1-15-02; A, 3-1-06; A, 10-1-07]

13.8.2.18 RATEMAKING REQUIREMENTS: Rate filings are subject to the following ratemaking requirements, in addition to all other requirements prescribed by law.

- A.** Rate filings may be based on any reasonable base period of at least three recent consecutive calendar, calendar-accident or policy years, or any combination of these, developed and trended as appropriate, unless the Superintendent finds such base to be inadequate or unreliable, in which case he shall specify the base to be used.
- B.** Expense data shall be derived from insurers' actual New Mexico expenses where available by line. Expenses and expense trending shall reflect actual expenses adjusted for anticipated increases or decreases on a company-by-company or other basis which accurately reflects differences in insurers' modes of operation and expense levels.
- C.** Rate filings shall reflect investment income allocated to the line or part of a line of New Mexico business. Investment income shall track each insurer's overall investment rate of return, including but not limited to realized capital gains. Investment income shall include income from each and every source specified in Subsection H of 13.8.2.17 NMAC.
- D.** Premiums, investment income, loss experience, actual expenses and all other applicable rate factors shall be adjusted to the level anticipated during the period to which the rates will apply. [7-1-97; 13.8.2.18 NMAC - Rn, 13 NMAC 8.2.18, 1-15-02; A, 3-1-06]

13.8.2.19 RATE MODIFICATION:

- A.** Filings made to modify rates shall be made pursuant to 13.8.5 NMAC, Rate Modification Plans.
- B.** If requested by an insured, experience modifiers shall be developed and applied separately and individually to each insured legal entity in New Mexico; provided, that if past experience is unavailable for individual legal entities, and cannot be developed at reasonable cost, such request shall apply on a prospective basis only. Such request shall be made not less than 120 days prior to the proposed effective date of the individual entity rating, and shall remain in effect for at least two full rating periods. [7-1-97; 13.8.2.19 NMAC - Rn, 13 NMAC 8.2.19, 1-15-02]

13.8.2.20 ADVISORY ORGANIZATION FILINGS:

A. Any licensed advisory organization may make advisory filings within the scope of its license as provided in 13.8.2 NMAC.

B. Advisory filings shall be made for informational purposes and such uses as permitted in 13.8.2 NMAC. Advisory rate filings are limited to pure premium rates, supplementary rate information and supporting data, including loss experience, developed and trended as appropriate. Advisory rate filings shall not contain data on premiums, investment income, expenses, profit factor, dividend allowance permissible loss ratio or other factors or supporting data which could be used to develop a full rate, other than loss experience.

C. The superintendent shall review all advisory filings. The superintendent shall determine if the filing is made by a properly licensed advisory organization within the scope of its license, and if the scope of such filing is limited in accordance with 13.8.2 NMAC, and if not, shall reject the filing. The superintendent shall also consider the rate standards contained in Section 59A-17-6 NMSA 1978 in determining whether advisory filings are acceptable.

D. An insurer may seek the superintendent's permission to base its own independent filing, or portions thereof, on information, data, statistics or pure premium rates contained in an advisory filing upon making a showing satisfactory to the superintendent that:

(1) the insurer lacks credible loss data of its own on which to base rates;

(2) the insurer's use of a uniform system of statistics, classifications, rating schedules, rating rules, underwriting rules or other similar information makes use of such supplementary rate information from an advisory filing both necessary and appropriate; provided, that Paragraph (2) of Subsection D of 13.8.2.20 NMAC applies only to statistical supplementary rate information, and does not apply to nor permit adoption of any rate, rate manual, minimum premium or policy fee; and

(3) with regard to Paragraph (1) of Subsection D of 13.8.2.20 NMAC, that such use of the advisory filing or portions thereof is appropriate because the loss experience contained in the advisory filing reasonably and accurately applies to the insurer, and will not result in rates which are excessive, inadequate or unfairly discriminatory.

[7-1-97; 13.8.2.20 NMAC - Rn, 13 NMAC 8.2.20, 1-15-02; A, 3-1-06; A, 10-1-07]

13.8.2.21 ASSIGNED RISK POOL FILINGS:

A. For purposes of rate filings, assigned risk plans and similar residual market plans applicable to risks not insurable through the voluntary market shall be considered and treated as if the plan were a single insurer.

B. Rates for assigned risk plans and other residual market plans may be based on:

(1) the plan's own premiums, investment income, loss and expense data, and other statutory factors;

(2) premiums, investment income, loss and expense data, and other statutory factors for all New Mexico risks in the line of business as a whole; provided, that if this option is used, a reasonable, actuarially-justified surcharge may be provided to reflect any demonstrated difference between projected loss and expense experience for the plan and for the line of business as a whole. Such surcharge shall be justified on the basis of comparative loss and expense experience for at least two recent consecutive years; or

(3) any other reasonable method meeting statutory standards and approved by the superintendent.

[7-1-97; 13.8.2.21 NMAC - Rn, 13 NMAC 8.2.21, 1-15-02; A, 3-1-06]

13.8.2.22 RATES FOR GOVERNMENTAL ENTITIES: Rate filings need not be followed in connection with policies bid or to be issued to state or local governmental entities in New Mexico; provided, that no rate to any such governmental entity shall exceed the filed rate or rates which would be applicable to the entity but for the provisions of 13.8.2 NMAC. 13.8.2 NMAC does not authorize bidding or issuance to governmental entities of lines or types of insurance for which an insurer has not otherwise filed and obtained approval of a rate, nor does it relieve any insurer of any duty to comply with the Insurance Code or laws related to bidding, sale or issuance of insurance to governmental entities.

[7-1-97; 13.8.2.22 NMAC - Rn, 13 NMAC 8.2.22, 1-15-02; A, 3-1-06]

13.8.2.23 ADVISORY ORGANIZATION MEMBERS' RIGHT OF NONADHESION TO FILINGS: No advisory organization shall require any member or subscriber insurer to adhere to the organization's New Mexico filings, whether made on behalf of the insurer or otherwise. No advisory organization shall in any manner limit or refuse to grant any insurer any right or privilege, including but not limited to full membership rights granted other insurers, or otherwise discriminate against any insurer, on the basis that the insurer has not adhered to or does not adhere to the organization's filings.

[7-1-97; 13.8.2.23 NMAC - Rn, 13 NMAC 8.2.23, 1-15-02; A, 10-1-07]

13.8.2.24 STATISTICAL SERVICES; INFORMATION: The superintendent may require insurers to provide statistical information in a standard format. The superintendent may designate an advisory organization to receive such information and tabulate it. The superintendent may act pursuant to this section by notifying affected insurers in writing.

[7-1-97; 13.8.2.24 NMAC - Rn, 13 NMAC 8.2.24, 1-15-02; A, 10-1-07]

13.8.2.25 WORKERS COMPENSATION REFERENCE FILINGS: An insurer that wishes to adopt an approved advisory workers compensation filing that has been filed on its behalf by the workers compensation advisory organization designated by the superintendent, with no deviation other than effective date, shall do so in accordance with Paragraph C of Section 59A-17-9 NMSA 1978.

[7-1-97; 13.8.2.25 NMAC, Rn, 13 NMAC 8.2.25, 1-15-02; Repealed, 3-1-06 - Rn, 13.8.2.26 NMAC & A, 3-1-06; A, 10-1-07]

13.8.2.26 AUTOMATIC ADOPTION OF ADVISORY LOSS COST FILINGS: An insurer may satisfy its obligation to make a rate filing by authorizing the superintendent of insurance to have its loss cost multipliers and, if utilized, expense constants be applicable to future revisions of the advisory organization's advisory prospective loss costs. However, an insurer that proposes to revise its loss cost multipliers, or deviate from the effective date or any other component of the advisory organization loss cost filing, or which fails to file with the superintendent of insurance to accept future advisory prospective loss cost filings of the specified advisory organization, must submit a filing in accordance with the provisions of 13.8.2 NMAC.

[13.8.2.26 NMAC - N, 10-1-07]

13.8.2.27 MAINTENANCE OF RATE INFORMATION: Regardless of whether an insurer is required to file its rates with the superintendent, an insurer shall maintain a copy of its rates and supplementary rate information currently in effect in sufficient detail to produce the premium charged on a policy. This information shall be available for immediate inspection by the superintendent.

[13.8.2.27 NMAC - N, 10-1-07]

13.8.2.28 NONCOMPETITIVE MARKETS:

A. The following markets lack a reasonable degree of competition and are therefore subject to the filing and prior approval requirements of Paragraph B of Section 59A-17-9 NMSA 1978:

- (1) farmowners multiple peril, due to the concentration of market share within a relatively small number of competitors as well as the increasing dominance of its largest writer;
- (2) medical professional liability, due to its concentration of market share among relatively few competitors as well as the increasing dominance in recent years of its largest writer;
- (3) credit, due to its concentration of market share among relatively few competitors; or
- (4) mortgage guaranty, due to the dominance of market share maintained by two competitors, the infrequent entry and exit of competitors, and the relatively low number of competitors for the market's premium volume.

B. The determination of noncompetitive markets in Subsection A of 13.8.2.28 NMAC shall expire on October 1, 2010.

[13.8.2.28 NMAC - N, 10-1-07]

13.8.2.29 REVERSE COMPETITIVE MARKETS: The following factors are likely indicators of a reverse competitive market:

- A.** insurance products sold or solicited in point-of-sale conjunction with purchases of consumer goods;
- B.** insurance products sold or solicited by individuals other than professional insurance agents;
- C.** products that insurers market primarily to parties other than prospective policyholders or to the parties that will pay the premium;
- D.** low loss ratios; or
- E.** high commission ratios.

[13.8.2.29 NMAC - N, 10-1-07]

HISTORY OF 13.8.2 NMAC:

Pre-NMAC Regulatory Filing History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

ID 67-1, Sections 10-1-1 through 10-1-13, New Mexico Official Administrative Rules and Regulations Code, on December 1, 1967

ID 70-1, Regulations Governing the Filing of Casualty, Fidelity, Surety, Property, Title and Vehicle Insurance Rates (Article 10, Chapter 58, Rule 1 Section 10-1-1 to Section 10-1-13), on June 3, 1970

SCC 87-3-IN, Rate Filings By Insurers And Rate Service Organizations, Insurance Department Regulation 17, Rule 1, on October 6, 1987.

History of Repealed Material: [RESERVED]

Other History:

That applicable portion of ID 70-1, Regulations Governing the Filing of Casualty, Fidelity, Surety, Property, Title and Vehicle Insurance Rates (Article 10, Chapter 58, Rule 1 Section 10-1-1 to Section 10-1-13) (filed 6-03-70); and SCC 87-3-IN, Rate Filings By Insurers And Rate Service Organizations, Insurance Department Regulation 17, Rule 1 (filed 10-06-87) were renumbered, reformatted, amended, and replaced by 13 NMAC 8.2, Rate Filings by Insurers and Rate Service Organizations, effective 7-01-97.

13 NMAC 8.2, Rate Filings by Insurers and Rate Service Organizations (filed 12-18-01) was renumbered, reformatted, amended, and replaced by 13.8.2 NMAC, Rate Filings by Insurers and Rate Service Organizations, effective 1-15-02.