

TITLE 13 INSURANCE
CHAPTER 8 INSURANCE POLICIES AND RATES
PART 3 CASUALTY, PROPERTY, TITLE AND VEHICLE INSURANCE POLICY FORMS

13.8.3.1 ISSUING AGENCY: New Mexico Public Regulation Commission Insurance Division.
[7-1-97; 13.8.3.1 NMAC - Rn & A, 13 NMAC 8.3.1, 3-1-06]

13.8.3.2 SCOPE: This rule applies to policies of all property, casualty, vehicle, marine and transportation, surety and title insurance coverages that are within the scope of Chapter 59A, Article 18 NMSA 1978.
[6-3-70; 13.8.3.2 NMAC - Rn & A, 13 NMAC 8.3.2, 3-1-06]
[See Section 59A-18-2 NMSA 1978 for the definition of policy and Chapter 59A, Article 7 NMSA 1978 for definitions of kinds of insurance.]

13.8.3.3 STATUTORY AUTHORITY: Sections 59A-2-9, 59A-17-6.1, 59A-17-6.2, 59A-18-12 and 59A-18-14 NMSA 1978.
[7-1-97; 13.8.3.3 NMAC - Rn & A, 13 NMAC 8.3.3, 3-1-06; A, 10-1-07]

13.8.3.4 DURATION: Permanent.
[7-1-97; 13.8.3.4 NMAC - Rn, 13 NMAC 8.3.4, 3-1-06]

13.8.3.5 EFFECTIVE DATE: June 3, 1970, unless a later date is cited at the end of a section.
[7-1-97; 13.8.3.5 NMAC - Rn & A, 13 NMAC 8.3.5, 3-1-06]

13.8.3.6 OBJECTIVE: The purpose of this rule is to implement Sections 59A-18-12 and 59A-18-14 NMSA 1978 by specifying the requirements for property, casualty, vehicle, marine and transportation, surety and title insurance policy forms.
[7-1-97; 13.8.3.6 NMAC - Rn & A, 13 NMAC 8.3.6, 3-1-06]

13.8.3.7 DEFINITIONS:
A. “**Commercial insurance**” has the meaning given in Section 59A-17-4 NMSA 1978; and
B. “**Reference filing**” means a filing by an insurer to adopt a legally effective filing by an advisory organization to which the insurer is amember, a subscriber or an affiliate.
[7-1-97; 13.8.3.7 NMAC - Rn & A, 13 NMAC 8.3.7, 3-1-06; A, 10-1-07]

13.8.3.8 GENERAL FILINGS:
A. Every insurer, advisory organization, FAIR plan, pool, or joint underwriting and joint reinsurance group, association or other organization of insurers must file with the superintendent of insurance every form of policy, endorsement, rider involving the granting or exclusion of coverage, or application which becomes a part of the policy, of casualty, fire, marine and transportation, wet marine, title and vehicle insurance.
B. An insurer may satisfy its obligation to make a policy form filing by becoming a member of or subscriber to, a licensed advisory organization which makes policy form, endorsement, rider or application filings and by authorizing the superintendent of insurance to accept these filings on its behalf.
C. Filings not subject to the limited exemption from prior approval in 13.8.3.9 NMAC may contain a request to become effective on any specified date on or after their date of filing.
[6-3-70; 7-1-97; 13.8.3.8 NMAC - Rn, 13 NMAC 8.3.8, 3-1-06; A, 10-1-07]

13.8.3.9 LIMITED EXEMPTION FROM PRIOR APPROVAL:
A. A commercial insurance filing shall become effective and may be used upon filing and shall be exempt from the requirement that the filing shall be made at least sixty days before its proposed effective date and from the prior approval requirements of Section 59A-18-12 NMSA 1978 if the filing is not:
 (1) for workers compensation insurance, an advisory organization filing or a company filing that deviates, in any manner other than effective date, from an approved workers compensation advisory organization filing;
 (2) for medical professional liability insurance;
 (3) for a market that is noncompetitive pursuant to 13.8.2.28 NMAC;

- (4) a market that is reverse competitive;
- (5) an assigned risk filing;
- (6) for title insurance;
- (7) for farm owner's insurance; or
- (8) for ranch owner's insurance.

B. Filings that qualify for the limited exemption provided by Subsection A of 13.8.3.9 NMAC shall be subject to all other requirements of 13.8.3 NMAC and Chapter 59A, Article 18 NMSA 1978.

C. The filing and use of forms that do not comply with or that violate provisions of the Insurance Code or administrative rules shall be subject to the administrative penalties stated in the Insurance Code, including Section 59A-1-18 NMSA 1978.

[7-1-97; 13.8.3.9 NMAC - Rn & A, 13 NMAC 8.3.9, 3-1-06; A, 10-1-07]

13.8.3.10 FILING REQUIREMENTS:

A. Separate filing: Form filings shall be made separately from rate or rate-related rule filings. Filings may be made by mail, courier, the national association of insurance commissioner's system for electronic rate and forms filing (SERFF) or in person and shall be addressed to the superintendent.

B. Transmittal documents: All form filings shall be submitted with completed transmittal documents in substantially the format of the appropriate current 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 *form filing schedule* document shall include:
 - (a) company tracking number;
 - (b) corresponding company tracking number of rate or rule filing, if applicable; and
 - (c) a description of the filing, including:
 - (i) form name, description and synopsis;
 - (ii) form number, including edition date;
 - (iii) a statement whether the filing is new, a replacement or a withdrawal;
 - (iv) if the filing is a replacement, the form number it replaces; and
 - (v) the previous state filing number.

C. Number of copies: The filer shall prepare the letter for transmission in duplicate. A stamped, self-addressed envelope must be included. The insurance division shall retain one copy and return the other to the filer with indication of the action taken by the division.

D. Name and address: The name and address of the insurer making the filing shall be clearly indicated. If group insurer stationery is used, the filer must identify the insurer or insurers for whom the filing is intended to be made.

E. Description: The filer shall give a description of the policy forms, endorsements, riders or applications being filed, identifying specifically the policy form affected and indicating whether it is a new policy form or supersedes current policy form filings, specifically describing the changes, including whether any of the changes include limitations, reductions or restrictions in coverages. This description may be given generally by reference to the title of the policy form, if any, enclosed with the filing.

F. Effective date: The filer shall state in the letter the date that the insurer proposes the form to become effective.

[6-3-70; 7-1-97; 13.8.3.10 NMAC - Rn & A, 13 NMAC 8.3.10, 3-1-06]

13.8.3.11 REQUIRED CONTENTS OF POLICIES: No policy forms shall be filed, delivered or issued for delivery in this state unless:

A. a statement of the premium or if the insurance is of a character where the exact premium is not determinable at inception of the contract, a statement of the basis and rates upon which the premium is to be determined and paid, is expressed therein;

B. the time the insurance takes effect and terminates, if determinable, is expressed therein;

C. it purports to express therein the person or persons insured;

D. every printed portion of the text matter and any endorsement or attached paper is printed in readable and legible type;

E. the exclusions, conditions and limitations of indemnities are adequately captioned or clearly set forth in the policy or contract; and

F. every form, including riders and endorsements, is identified by a form designation, provided however, that in order that policy forms, endorsements, riders or applications which follow the standard provisions filed by a rating organization will be readily recognized as standard forms, all these forms printed for use in New Mexico shall bear a recognition designation given the standard form by the rating organization. Insurers are not precluded from also adding their own designation.

[6-3-70; 7-1-97; 13.8.3.11 NMAC - Rn, 13 NMAC 8.3.11, 3-1-06]

13.8.3.12 POLICY FORM RESTRICTION: Insurers shall not require their New Mexico insureds or applicants for insurance to make a "warranty" either expressed or implied, of any fact or allegation in the application for an insurance policy. This does not prohibit the use of the word "representations" or words of similar import and does not prohibit the use of the word "warranty" if the application contains a definition of "warranty" in which the language used is clear, understandable and accurate.

[6-3-70; 7-1-97; 13.8.3.12 NMAC - Rn, 13 NMAC 8.3.12, 3-1-06]

13.8.3.13 INSURERS AFFILIATED WITH ADVISORY ORGANIZATIONS: All insurers affiliated with advisory organizations shall adhere to the following procedures.

A. An insurer newly affiliated with an advisory organization will be presumed to be using the forms filed by the advisory organization from the effective date of membership or subscribership or affiliation.

B. An insurer retiring from membership or subscribership or affiliation with an advisory organization will immediately upon retirement be presumed to meet the filing requirements of policy forms as provided in 13.8.3.8 NMAC.

[6-3-70; 7-1-97; 13.8.3.13 NMAC - Rn, 13 NMAC 8.3.13, 3-1-06; A, 10-1-07]

13.8.3.14 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.

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

13.8.3.15 AUTOMATIC ADOPTION OF ADVISORY ORGANIZATION FORM FILINGS: An insurer may satisfy its obligation to make a form filing by authorizing the superintendent of insurance to adopt on its behalf all form filings legally in effect that have been filed by an advisory organization to which the insurer is a member or a subscriber or an affiliate. However, an insurer that proposes to use a form or to deviate from the effective date or any other component of the advisory organization from filing, or which fails to file with the superintendent of insurance to accept future form filings of the specified advisory organization, must submit a filing in accordance with the provisions of 13.8.3 NMAC.

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

HISTORY OF 13.8.3 NMAC:

Pre-NMAC History: The material in this rule was previously filed with the State Records Center:

ID 70-2, Regulation Governing The Filing of Casualty fidelity, Surety, Property, Title and Vehicle Insurance Forms (Article 8, Chapter 58, Rule 2 Section 8-21-1 to 8-2-13), filed 6/3/70.

History of Repealed Material: [RESERVED]

Other History:

ID 70-2, Regulation Governing The Filing of Casualty Fidelity, Surety, Property, Title and Vehicle Insurance Forms (Article 8, Chapter 58, Rule 2 Section 8-21-1 to 8-2-13) (filed 6-3-70) was renumbered , reformatted, amended and replaced by 13 NMAC 8.3, Casualty, Property, Title and Vehicle Insurance Policy Forms, effective 7-01-97.

13 NMAC 8.3, Casualty, Property, Title and Vehicle Insurance Policy Forms (filed 5-27-97) was renumbered , reformatted, amended and replaced by 13.8.3 NMAC, Casualty, Property, Title and Vehicle Insurance Policy Forms, effective 3-1-06.