

This rule was filed as 13 NMAC 9.3.

TITLE 13 INSURANCE
CHAPTER 9 LIFE INSURANCE AND ANNUITIES
PART 3 VARIABLE ANNUITY CONTRACTS

13.9.3.1 ISSUING AGENCY: New Mexico State Corporation Commission [Public Regulation Commission], Department of Insurance, Post Office Box 1269, Santa Fe, NM 87504-1269.
[7/1/97; Recompiled 11/30/01]

13.9.3.2 SCOPE: This rule applies to insurance companies delivering or issuing for delivery in this state variable annuities.
[7/1/97; Recompiled 11/30/01]

13.9.3.3 STATUTORY AUTHORITY: Sections 59A-2-9 NMSA 1978.
[7/1/97; Recompiled 11/30/01]

13.9.3.4 DURATION: Permanent.
[7/1/97; Recompiled 11/30/01]

13.9.3.5 EFFECTIVE DATE: July 1, 1997, unless a later date is cited at the end of a section or paragraph.
[7/1/97; Recompiled 11/30/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

13.9.3.6 OBJECTIVE: The purpose of this rule is to establish the requirements for issuance or delivery of variable annuities.
[7/1/97; Recompiled 11/30/01]

13.9.3.7 DEFINITIONS: For the purpose of this rule:

A. **"Agent"** means a person, corporation, partnership or other legal entity that under the laws of this state is licensed as a life insurance agent, solicitor, general agent or life insurance broker.

B. **"Net investment return"** means that the rate of investment return to be credited to the variable annuity contract in accordance with the terms of the contract after deductions for tax charges, if any, and for asset charges either at a rate not in excess of that stated in the contract, or in the case of a contract issued by a nonprofit corporation under which the contractholder participates fully in the investment, mortality and expense experience of the account, in an amount not in excess of the actual expense not offset by other deductions. The net investment return to be credited to a contract shall be determined at least monthly.

C. **"Variable annuity"** means a policy or contract that provides for annuity benefits that vary according to the investment experience of a separate account or accounts maintained by the insurer as to the policy or contract, as provided for in Section 59A-20-30 NMSA 1978.
[7/1/97; Recompiled 11/30/01]

13.9.3.8 QUALIFICATION OF INSURANCE COMPANIES TO ISSUE VARIABLE ANNUITIES:

A. A company shall not deliver or issue for delivery variable annuities within this state unless it is licensed or organized to do a life insurance or annuity business in this state and the superintendent is satisfied that its condition or method of operation in connection with the issuance of these contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the superintendent shall consider among other things:

- (1) the history and financial condition of the company;
- (2) the character, responsibility and fitness of the officers and directors of the company; and
- (3) the law and rule under which the company is authorized in the state of domicile to issue variable annuities.

B. If the company is a subsidiary of an admitted life insurance company, or affiliated with a company by common management or ownership, it may be deemed by the superintendent to have satisfied the provisions of 13 NMAC 9.3.8.1.2 [now Paragraph (2) of Subsection A of 13.9.3.8 NMAC] if either it or the admitted life company satisfies the provisions of 13 NMAC 9.3.8.1.2 [now Paragraph (2) of Subsection A of 13.9.3.8 NMAC]. Companies licensed and having a satisfactory record of doing business in this state for a period of at least three (3) years may be deemed to have satisfied the superintendent with respect to 13 NMAC 9.3.8.1.2 above [now Paragraph (2) of Subsection A of 13.9.3.8 NMAC].

C. Before any company shall deliver or issue for delivery variable annuities within this state it shall submit to the superintendent:

- (1) a general description of the kinds of variable annuities it intends to issue;
 - (2) if requested by the superintendent, a copy of the statutes and rules of its state of domicile under which it is authorized to issue variable annuities; and
 - (3) if requested by the superintendent, biographical data with respect to officers and directors of the company on the NAIC uniform biographical data forms.
- [7/1/97; Recompiled 11/30/01]

13.9.3.9 SEPARATE ACCOUNT: A domestic company issuing variable annuities shall establish one or more separate accounts pursuant to Section 59A-20-30 NMSA 1978 and subject to the provisions in this section and in 13 NMAC 9.3.10, 13 NMAC 9.3.11 and 13 NMAC 9.3.12 [now 13.9.3.10 NMAC, 13.9.3.11 NMAC and 13.9.3.12 NMAC].

A. Unless otherwise approved by the superintendent, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to the separate account. Unless otherwise approved by the superintendent, the portion, if any, of the assets of the separate account equal to the company's reserve liability with regard to the benefits and funds referred to in 13 NMAC 9.3.10.2 [now Subsection B of 13.9.3.10 NMAC] shall be valued in accordance with the rules otherwise applicable to the company's assets.

B. To the extent provided under the applicable contracts, that portion of the assets of a separate account equal to the reserves and other contract liabilities with respect to the account shall not be chargeable with liabilities arising out of any other business the company may conduct.

C. The company shall maintain in each such separate account assets with a value at least equal to the reserves and other contract liabilities with respect to the account, except as may otherwise be approved by the superintendent.

D. Rules under any provision of the insurance laws of this state or any rule applicable to the officers and directors of insurance companies with respect to conflict of interest shall also apply to members of a separate accounts committee, board or other similar body. No officer or director of the company nor a member of the committee, board or body of a separate account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of the separate account.

[7/1/97; Recompiled 11/30/01]

13.9.3.10 INVESTMENTS:

A. Except as may be provided with respect to reserves for guaranteed benefits and funds referred to in 13 NMAC 9.3.10.2 [now Subsection B of 13.9.3.10 NMAC]:

(1) amounts allocated to a separate account and its accumulations may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies; and

(2) the investments in the separate account or accounts shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.

B. Reserves for benefits guaranteed as to dollar amount and duration and funds guaranteed as to principal amount or stated rate of interest may be maintained in a separate account if a portion of the assets of the separate account at least equal to the reserve liability is invested in accordance with the laws and rules of this state governing the investments of life insurance companies. That portion of the assets also shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.

C. With respect to seventy-five percent (75%) of the market value of the total assets in a separate account a company shall not purchase or otherwise acquire the securities of an issuer, other than securities issued or guaranteed as to principal or interest by the United States, if immediately after the purchase or acquisition the

market value of the investment, together with prior investments of the separate account in the security taken at market, would exceed ten percent (10%) of the market value of the assets of the separate account. The superintendent, may waive this limitation if, in the opinion of the superintendent, the waiver will not render the operation of the separate account hazardous to the public or policyholders in this state.

D. Unless otherwise permitted by law or approved by the superintendent, a company shall not purchase or otherwise acquire for its separate accounts the voting securities of an issuer if, as a result of the acquisition, the insurance company and its separate accounts, in the aggregate, will own more than ten percent (10%) of the total issued and outstanding voting securities of the issuer. This shall not apply with respect to securities held in separate accounts where the voting rights are exercisable only in accordance with instructions from persons having interest in the accounts.

E. The limitations provided in 13 NMAC 9.3.10.3 and 9.3.10.4 [now Subsections C and D of 13.9.3.10 NMAC] of this subsection shall not apply to investments with respect to a separate account in the securities of an investment company registered under the Investment Company Act of 1940, if the investments of the investment company comply in substance with 13 NMAC 9.3.10.3 and 9.3.10.4 [now Subsections C and D of 13.9.3.10 NMAC].

[7/1/97; Recompiled 11/30/01]

13.9.3.11 REGISTERED ACCOUNTS:

A. Notwithstanding any other provisions of law, a company may:

(1) with respect to a separate account registered with the securities and exchange commission as a unit investment trust, exercise voting rights in connection with securities of a regulated investment company registered under the Investment Company Act of 1940 and held in such separate accounts in accordance with instructions from persons having interests in such accounts ratably as determined by the company; or

(2) with respect to a separate account registered with the securities and exchange commission as a management investment company, establish for the account a committee, board or other body, whose members may or may not be otherwise affiliated with the company and may be elected to membership by the vote of persons having interests in the account ratably as determined by the company. The committee, board or other body may have the power, exercisable alone or in conjunction with others, to manage the separate account and the investment of its assets.

B. A company, committee, board or other body may make other provisions in respect to a separate account as may be deemed appropriate to facilitate compliance with requirements of any federal or state law now or hereafter in effect if the superintendent approves the provisions as not hazardous to the public or the company's policyholders in this state.

[7/1/97; Recompiled 11/30/01]

13.9.3.12 TRANSFER OF ASSETS:

A. No sale, exchange or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in the case of a transfer into a separate account, the transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless the transfer, whether into or from a separate account, is made:

(1) by a transfer of cash; or

(2) by a transfer of securities having a valuation which could be readily determined in the marketplace, if that transfer of securities is approved by the superintendent.

B. The superintendent may authorize other transfers among such accounts, if, in his opinion, such transfers would not be inequitable.

[7/1/97; Recompiled 11/30/01]

13.9.3.13 FILING OF CONTRACTS: The filing requirements applicable to variable annuities shall be those filing requirements otherwise applicable under existing statutes and rules of this state with respect to individual and group life insurance and annuity contract form filings, to the extent appropriate.

[7/1/97; Recompiled 11/30/01]

13.9.3.14 CONTRACT REQUIREMENTS:

A. A variable annuity providing benefits payable in variable amounts delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of variable benefits. A contract, including a group contract and a certificate in evidence of variable benefits issued under the contract, shall state that the dollar amount will vary to reflect investment experience and shall contain on its first page a clear statement to the effect that the benefits of the contract are on a variable basis.

B. Illustrations of benefits payable under any variable annuity shall not include projections of past investment experience into the future or attempted predictions of future investment experience. Nothing contained herein is intended to prohibit use of hypothetical assumed rates of return to illustrate possible levels of benefits.

C. No individual variable annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this state unless it contains in substance the following provisions or provisions which in the opinion of the superintendent are more favorable to the holders of contracts:

(1) a provision that there shall be a grace period of thirty (30) days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which grace period the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which a payment received during the grace period shall be applied to produce the values arising under the contract; and

(2) a provision that, at any time within [insert number of years] from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of overdue payments as required by contract, and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover overdue payments and indebtedness shall be applied to produce the values arising under the contract.

[7/1/97; Recompiled 11/30/01]

13.9.3.15 VARIABLE FACTORS:

A. A variable annuity contract delivered or issued for delivery in this state shall stipulate the investment increment factors to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder, and may guarantee that expense and mortality results shall not adversely affect the dollar amounts. In the case of an individual variable annuity contract under which the expense and mortality results may adversely affect the dollar amount of benefits, the expense and mortality factors shall be stipulated in the contract.

B. In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

(1) The annual net investment increment assumption shall not exceed five percent (5%) except with the approval of the superintendent.

(2) To the extent that the level of benefits may be affected by future mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a lower life expectancy at any age, or, if approved by the superintendent, from another table.

C. Expense, as used in this section, may exclude some or all taxes, as stipulated in the contract.

[7/1/97; Recompiled 11/30/01]

13.9.3.16 RESERVES: The reserve liability for variable annuities shall be established pursuant to the requirements of Section 59A-8-5 NMSA 1978 in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

[7/1/97; Recompiled 11/30/01]

13.9.3.17 NONFORFEITURE BENEFITS:

A. To the extent that a variable annuity contract provides benefits that do not vary in accordance with the investment performance of a separate account before the annuity commencement date, the contract shall contain provisions that satisfy the requirements of Section 59A-20-33 NMSA 1978 and shall not otherwise be subject to this section.

B. In the case of a contract issued on or after January 1, 1999, no variable annuity contract, except as stated in 13 NMAC 9.3.18 and 9.3.17.1 [now 13.9.3.18 NMAC and Subsection A of 13.9.3.17 NMAC], shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or provisions

which in the opinion of the superintendent are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan described in the contract that complies with 13 NMAC 9.3.22.1 [now Subsection A of 13.9.3.22 NMAC]. The description will include a statement of the mortality table, if any, and guaranteed or assumed interest rates used in calculating annuity payments.

(2) If a contract provides for a lump sum settlement at maturity or at any other time, that upon surrender of the contract at or prior to the commencement of annuity payments, the company will pay in lieu of a paid-up annuity benefit a cash surrender benefit described in the contract that complies with 13 NMAC 9.3.22.2 [now Subsection B of 13.9.3.22 NMAC]. The contract may provide that the company reserves the right, at its option, to defer the determination and payment of a cash surrender benefit for any period during which the New York stock exchange is closed for trading (except for normal holiday closing) or when the securities and exchange commission has determined that a state of emergency exists that may make determination and payment impractical.

(3) A statement that a paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

[7/1/97; Recompiled 11/30/01]

13.9.3.18 EXEMPTIONS FROM NONFORFEITURE BENEFITS: 13 NMAC 9.3.17 [now 13.9.3.17 NMAC] shall not apply to any:

- A. reinsurance;
- B. group annuity contract purchases in connection with one or more retirement plans or plans of deferred compensation established or maintained by or for one or more employers (including partnerships or sole proprietorships), employee organizations, or any combination thereof, or other than plans providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code;
- C. premium deposit fund;
- D. investment annuity;
- E. immediate annuity;
- F. deferred annuity contract after annuity payments have commenced;
- G. reversionary annuity; or
- H. to any contract which is to be delivered outside this state through an agent or other representative of the company issuing the contract.

[7/1/97; Recompiled 11/30/01]

13.9.3.19 MINIMUM NONFORFEITURE VALUES:

A. The minimum values as specified in this section of paid-up annuity, cash surrender or death benefits available under a variable annuity contract shall be based upon nonforfeiture amounts meeting the requirements of this subsection.

B. The minimum nonforfeiture amount on any date prior to the annuity commencement date shall be an amount equal to the percentages of net considerations (as specified in 13 NMAC 9.3.20) [now 13.9.3.20 NMAC] increased (or decreased) by the net investment return allocated to the percentages of net considerations, reduced to reflect the effect of:

- (1) any partial withdrawals from or partial surrenders of the contract;
- (2) the amount of any indebtedness on the contract, including interest due and accrued;
- (3) an annual contract charge not less than zero and equal to:
 - (a) the lesser of \$30 or two percent (2%) of the end of year contract value; less
 - (b) the amount of any annual contract charge deducted from any gross considerations credited to the contract during such contract year; and
- (4) a transaction charge of \$10 for each transfer to another separate account or to another investment division within the same separate account.

C. The annual contract charge of \$30 and the transaction charge of \$10 referred to in 13 NMAC 9.3.19.2.3.1 and 9.3.19.2.4 [now Subparagraph (a) of Paragraph (3) and Paragraph (4) of Subsection B of 13.9.3.19

NMAC] will be adjusted to reflect changes in the consumer price index in accordance with 13 NMAC 9.3.21 [now 13.9.3.21 NMAC].
[7/1/97; Recompiled 11/30/01]

13.9.3.20 NET CONSIDERATION PERCENTAGES: The percentages of net considerations used to define the minimum nonforfeiture amount in 13 NMAC 9.3.19 [now 13.9.3.19 NMAC] shall meet the requirements of this section.

A. With respect to contracts providing for periodic considerations, the net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of \$30 and less a collection charge of \$1.25 per consideration credited to the contract during that contract year less any charges for premium taxes. The percentages of net considerations shall be sixty-five percent (65%) for the first contract year and eighty-seven and one-half percent (87.5%) for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

B. With respect to contracts providing for a single consideration, the net consideration used to define the minimum nonforfeiture amount shall be the gross consideration less a contract charge of \$75 and less any charge for premium taxes. The percentage of the net consideration shall be ninety percent (90%).

C. The annual contract charge of \$30, the collection charge of \$1.25 per collection, and the single consideration contract charge of \$75 referred to in 13 NMAC 9.3.20.1 and 9.3.20.2 [now Subsections A and B of 13.9.3.20 NMAC], will be adjusted to reflect changes in the consumer price index in accordance with 13 NMAC 9.3.21 [now 13.9.3.21 NMAC].
[7/1/97; Recompiled 11/30/01]

13.9.3.21 DEMONSTRATION OF COMPLIANCE: Demonstration that a contract's nonforfeiture amounts comply with this section shall be based on the following assumptions:

- A. values should be tested at the end of each of the first twenty (20) contract years;
- B. a net investment return of seven percent (7%) per year should be used;
- C. if the contract provides for transfers to another separate account or to another investment division within the same separate account, one transfer per contract year should be assumed;
- D. in determining the state premium tax applicable to the contract, the state of residence should be assumed to equal the state of delivery;
- E. with respect to contracts providing for periodic considerations, monthly considerations of \$100 should be assumed for each of the first 240 months;
- F. with respect to contracts providing for a single consideration, a \$10,000 single consideration should be assumed; and
- G. the following contract charges should be used:

(1) for contracts filed in 1980 or earlier, the annual contract charge of \$30 referred to in 13 NMAC 9.3.19 and 9.3.20 [now 13.9.3.19 NMAC and 13.9.3.20 NMAC], the charge of \$10 per transfer referred to in 13 NMAC 9.3.19 [now 13.9.3.19 NMAC], the collection charge of \$1.25 per consideration referred to in 13 NMAC 9.3.20 [now 13.9.3.20 NMAC], and the contract charge of \$75 referred to in 13 NMAC 9.3.20.2 [now Subsection B of 13.9.3.20 NMAC].

(2) for contracts filed in 1981 or later, the contract charges in 13 NMAC 9.3.21.7.1 [now Paragraph (1) of Subsection G of 13.9.3.21 NMAC] multiplied by the ratio of the consumer price index for June of the calendar year preceding the date of filing, to the consumer price index for June 1979.

H. If the contract provides for allocation of considerations to both fixed and variable accounts, one hundred percent (100%) of the considerations should be assumed to be allocated to the variable account.

I. As used herein, the consumer price index means the index for all urban consumers for all items published by the bureau of labor statistics of the United States department of labor or its successor. If publication of the consumer price index ceases, or if the index otherwise becomes unavailable or is altered in such a way as to be unusable, the superintendent will substitute an index deemed suitable by the superintendent.
[7/1/97; Recompiled 11/30/01]

13.9.3.22 OTHER NONFORFEITURE RULES:

A. Any paid-up annuity benefit available under a variable annuity contract shall be such that its present value on the annuity commencement date is at least equal to the minimum nonforfeiture amount on that date. The present value shall be computed using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.

B. For variable annuity contracts that provide cash surrender benefits, the cash surrender benefit at any time prior to the annuity commencement date shall not be less than the minimum nonforfeiture amount computed after the request for surrender is received by the company. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

C. A variable annuity contract that does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the annuity commencement date shall include a statement in a prominent place in the contract that these benefits are not provided.

D. Notwithstanding the requirements of this section, a variable annuity contract may provide under the situations specified in 13 NMAC 9.3.22.4.1 or 9.3.22.4.2 [now Paragraphs (1) or (2) of Subsection D of 13.9.3.22 NMAC] of this subsection that the company, at its option, may cancel the annuity and pay the contractholder its accumulated value and by such payment be released of any further obligation under the contract:

(1) If, at the time the annuity becomes payable, the accumulated value is less than \$2,000, or would provide an initial income of less than \$20 per month; or

(2) If, prior to the time the annuity becomes payable under a periodic payment variable annuity contract, no considerations have been received under the contract for a period of two (2) full years and the total considerations paid prior to such period, reduced to reflect any partial withdrawals from or partial surrenders of the contract, and the accumulated value amount to less than \$2,000.

E. For a variable annuity contract that provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of 13 NMAC 9.3.19 [now 13.9.3.19 NMAC], additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of additional benefits shall not be required in any paid-up benefits, unless the additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

[7/1/97; Recompiled 11/30/01]

13.9.3.23 REQUIRED REPORTS:

A. A company issuing individual variable annuities shall mail to the contractholder at least once in each contract year after the first at his or her last address known to the company, a statement or statements reporting the investments held in the separate account. The company shall submit annually to the insurance superintendent a statement of business of its separate account or accounts in such form as may be prescribed by the national association of insurance commissioners.

B. A company issuing individual variable annuities shall mail to the contractholder at least once in each contract year after the first at his or her last address known to the company a statement reporting as of a date not more than four (4) months previous to the date of mailing. In the case of an annuity contract under which payments have not yet commenced, the statement shall contain:

(1) the number of accumulation units credited to the contract and the dollar value of a unit; or

(2) the value of the contractholder's account.

[7/1/97; Recompiled 11/30/01]

13.9.3.24 FOREIGN COMPANIES: If the law or rules in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public substantially equal to that provided by this rule, the superintendent, to the extent deemed appropriate by the superintendent, may consider compliance with that law or rules as compliance with this rule.

[7/1/97; Recompiled 11/30/01]

13.9.3.25 QUALIFICATIONS OF AGENTS FOR THE SALE OF VARIABLE ANNUITIES:

A. Required licensing:

(1) A person may not sell or offer for sale in this state any variable annuity contract unless the person is an agent and has filed with the superintendent, in a form satisfactory to the superintendent, evidence that the person holds any license or authorization that may be required by any federal or state securities law for the solicitation or sale of variable annuity contracts.

(2) Any examination administered by the department for the purpose of determining the eligibility of any person for licensing as an agent shall, after the effective date of this rule, include such questions concerning the history, purpose, regulation and sale of variable annuity contracts as the superintendent deems appropriate.

B. Required reporting: A person qualified in this state under this section to sell or offer to sell variable annuity contracts shall immediately report to the superintendent:

(1) any suspension or revocation of his or her agent's license in any other state or territory of the United States;

(2) the imposition of any disciplinary sanction, including suspension or expulsion from membership, suspension, or revocation of or denial of registration, imposed upon him or her by any national securities exchange, or national securities association, or any federal, state or territorial agency with jurisdiction over securities or variable annuity contracts;

(3) any judgment or injunction entered against him or her on the basis of conduct deemed to have involved fraud, deceit, misrepresentation or violation of any insurance or securities law or rule.

C. Licensing actions: The superintendent may reject an application or suspend or revoke or refuse to renew an agent's qualification under this section to sell or offer to sell variable annuity contracts upon any ground that would bar the applicant or agent from being licensed to sell other life insurance contracts in this state. The rules governing any proceeding relating to the suspension or revocation of an agent's license shall also govern any proceeding for suspension or revocation of an agent's qualification to sell or offer to sell variable annuity contracts. [7/1/97; Recompiled 11/30/01]

HISTORY OF 13.9.3 NMAC:

Pre-NMAC History: The material in this rule was originally filed with the State Records Center as: ID 67-1, Sections 22-1-1 through 22-1-9, New Mexico Official Administrative Rules and Regulations Code, on 12/1/67.

History of Repealed Material: [RESERVED]