

This rule was filed as 13 NMAC 13.3.

**TITLE 13 INSURANCE**  
**CHAPTER 13 PROPERTY INSURANCE**  
**PART 3 THE NEW MEXICO FAIR PLAN**

**13.13.3.1 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]

**13.13.3.2 SCOPE:** This rule applies to all insurers providing essential property insurance pursuant to the FAIR Plan Act, Chapter 59A, Article 29 NMSA 1978.  
[9/15/93, 7/1/97; Recompiled 11/30/01]

**13.13.3.3 STATUTORY AUTHORITY:** Sections 59A-2-9, 59A-3-6, 59A-18-17 and 59A-29-2 NMSA 1978.  
[9/15/93; Recompiled 11/30/01]

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

**13.13.3.5 EFFECTIVE DATE:** September 15, 1993, unless a later date is cited at the end of a section or paragraph. Repromulgated in NMAC format effective July 1, 1997.  
[9/15/93, 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[Compiler's note: The words *or paragraph*, above, are no longer applicable.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.]

**13.13.3.6 OBJECTIVE:** This rule specifies minimum coverages to be provided by the New Mexico property insurance program, the underwriting association established under Section 59A-29-2 NMSA 1978 of the FAIR Plan Act.  
[9/15/93; Recompiled 11/30/01]

**13.13.3.7 DEFINITIONS:**

- A. **"Actual cash value"** means replacement cost minus depreciation.
  - B. **"Essential property insurance"** means any policy of insurance which contains insurance against direct loss to real and tangible personal property at a fixed location as defined and limited in the standard fire policy and extended coverage endorsement and vandalism or malicious mischief endorsement (including builders risk coverage) approved by the superintendent. Essential property insurance does not include automobile risks, farm risks, or manufacturing risks.
  - C. **"Extended coverage"** means coverage for a package of perils insured on an optional basis, including: windstorm, hail, smoke, explosion, riot or civil commotion, aircraft damage, vehicle damage, and volcanic eruption. The package of perils included in extended coverage may change by custom or order of the superintendent.
  - D. **"Fire"** means a rapid oxidation with a flame or glow that is hostile, or goes beyond intended confines.
  - E. **"Manufacturing risks"** means all properties used for the fabrication, processing, or assembly of products or components of products, each of which: (a) employ fifteen or more persons; and (b) have an insurable value in excess of two hundred fifty thousand dollars (\$250,000).
  - F. **"Replacement cost"** means the cost to repair or replace damaged property.
  - G. **"Vandalism or malicious mischief"** means the willful and malicious damage or destruction of property.
- [9/15/93; Recompiled 11/30/01]

**13.13.3.8 FAIR PLAN OPERATIONS:** FAIR plan articles of association, by-laws, guidelines and operating procedures of the New Mexico property insurance program shall be subject to the superintendent's prior approval.

[9/15/93; Recompiled 11/30/01]

**13.13.3.9 FAIR PLAN ESSENTIAL PROPERTY INSURANCE:** For purposes of the FAIR Plan Act, Chapter 59A, Article 29 NMSA 1978, all authorized insurers authorized to write and writing essential property insurance shall be members of the New Mexico property insurance program and shall participate in the program in accordance with the FAIR plan articles of association, by-laws, guidelines and operating procedures of the New Mexico property insurance program.

[9/15/93; Recompiled 11/30/01]

**13.13.3.10 FAIR PLAN COVERAGES AND RATES:**

A. The New Mexico property insurance program shall, at a minimum, offer insurance for the perils of fire, extended coverage and vandalism or malicious mischief for buildings and contents. Additional coverages may be provided, so long as they are included in the FAIR plan articles of association, by-laws, guidelines and operating procedures of the New Mexico property insurance program. Replacement cost coverage may be provided by the New Mexico property insurance program subject to reasonable eligibility criteria approved by the superintendent, so long as it is provided for in the FAIR plan articles of association, by-laws, guidelines and operating procedures of the New Mexico property insurance program. Replacement cost coverage, if offered, shall be an optional coverage.

B. Insurance coverage shall be provided to eligible properties located within the state of New Mexico. Reasonable eligibility criteria may be specified by the New Mexico property insurance program, as approved by the superintendent.

C. Actual cash value coverage shall be offered by the New Mexico property insurance program subject to applicable eligibility criteria. Section 59A-18-17C NMSA 1978, requiring residential property insurance policies to cover the cost to repair or replace without deduction for depreciation, does not apply to the New Mexico property insurance program.

D. FAIR Plan Act insurance shall be written on policy forms filed with and approved by the superintendent.

E. FAIR Plan Act rates shall be subject to the superintendent's prior approval.

[9/15/93; Recompiled 11/30/01]

**13.13.3.11 GENERAL PENALTY:** In addition to any other penalty provided by law or regulation, violation of the provisions of this rule is subject to penalties for violation of the Insurance Code (Chapter 59A NMSA 1978).

[9/15/93; Recompiled 11/30/01]

**HISTORY OF 13.13.3 NMAC:**

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center as:

SCC 93-1,-IN The New Mexico FAIR Plan (Regulation 29, Rule 1), filed 8/6/93.

History of Repealed Material: [RESERVED]