

TITLE 13 INSURANCE
CHAPTER 8 INSURANCE POLICIES AND RATES
PART 4 CANCELLATION, NONRENEWAL OR CHANGE IN COVERAGES OF PROPERTY AND CASUALTY INSURANCE POLICIES

13.8.4.1 ISSUING AGENCY: New Mexico Public Regulation Commission Insurance Division.
[7/1/97; 13.8.4.1 NMAC - Rn & A, 13 NMAC 8.4.1, 12/31/07]

13.8.4.2 SCOPE: This rule applies to all insurers who cancel, change, or fail to renew, coverage in any policy of property and casualty insurance.
[7/1/97; 13.8.4.2 NMAC - Rn, 13 NMAC 8.4.2, 12/31/07]

13.8.4.3 STATUTORY AUTHORITY: Sections 59A-2-9 and 59A-18-29 NMSA 1978.
[7/1/97; 13.8.4.3 NMAC - Rn, 13 NMAC 8.4.3, 12/31/07]

13.8.4.4 DURATION: Permanent.
[7/1/97; 13.8.4.4 NMAC - Rn, 13 NMAC 8.4.4, 12/31/07]

13.8.4.5 EFFECTIVE DATE: February 1, 1980, unless a later date is cited at the end of a section.
[7/1/97; 13.8.4.5 NMAC - Rn & A, 13 NMAC 8.4.5, 12/31/07]

13.8.4.6 OBJECTIVE: The purpose of this rule is to implement Section 59A-18-29 NMSA 1978 by establishing minimum requirements for the cancellation, non-renewal or changes in coverage on all policies of property or casualty insurance issued by an insurer to an insured.
[2/1/80, 7/1/97; 13.8.4.6 NMAC - Rn, 13 NMAC 8.4.6, 12/31/07]

13.8.4.7 DEFINITIONS: The following words and terms shall have the following meanings unless the context otherwise requires:

- A. "agent"** means any person licensed by the superintendent to transact the insurer's business in this state;
- B. "casualty insurance"** has the meaning given in Section 59A-7-6 NMSA 1978;
- C. "insurance binder"** means any undertaking by an insurer, or its agent, to issue a policy of insurance to the insured;
- D. "insured"** means any person who has been issued a policy of insurance or insurance binder by an insurer;
- E. "insurer"** means any insurance company authorized to transact property and casualty insurance in this state, and any non-admitted insurance company providing property and casualty policies of insurance through a surplus line broker in this state;
- F. "mail or mailing"** means the deposit of a written notice to the insured in the U.S. mails, first-class postage prepaid, addressed to the insured at his last known address;
- G. "marine and transportation insurance"** has the meaning given in Section 59A-7-5 NMSA 1978;
- H. "personal insurance"** has the meaning given in Section 59A-17A-3 NMSA 1978;
- I. "policy or policy of insurance"** has the meaning given in Section 59A-18-2 NMSA 1978;
- J. "policy term"** means the stated time during which a policy is effective;
- K. "property and casualty insurance"**, as used in this rule, includes property, casualty, vehicle, marine and transportation, wet marine and surety insurance;
- L. "property insurance"** has the meaning given in Section 59A-7-4 NMSA 1978;
- M. "surety insurance"** has the meaning given in Section 59A-7-8 NMSA 1978;
- N. "vehicle insurance"** has the meaning given in Section 59A-7-7 NMSA 1978; and
- O. "wet marine insurance"** has the meaning given in Section 59A-7-5 NMSA 1978;

[2/1/80, 7/1/97; 13.8.4.7 NMAC - Rn & A, 13 NMAC 8.4.7, 12/31/07]

13.8.4.8 CANCELLATION DURING POLICY TERM - MORE THAN SIXTY (60) DAYS AFTER EFFECTIVE DATE OF POLICY:

A. If a policy of insurance has been in effect for sixty (60) days or more, an insurer may cancel the policy if there has been a substantial change in the risk assumed by the insurer since the policy was issued. An insurer, to affect such cancellation, shall mail or deliver to the insured a written notice stating the reason for such cancellation and stating when, not less than thirty (30) days after mailing or delivery, the cancellation shall be effective.

B. If a policy of insurance has been in effect for sixty (60) days or more, an insurer may cancel the policy only for one or more of the following reasons:

(1) the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the insurer;

(2) willful and negligent acts or omission by the insured have substantially increased the hazards insured against;

(3) revocation or suspension of driver's license of the named insured or other operator who either resides in the same household or customarily operates the vehicle; or

(4) the named insured presented a claim based on fraud or material misrepresentation.

C. An insurer, to affect such cancellation, shall mail or deliver to the insured a written notice stating the reason for such cancellation and stating when, not less than fifteen (15) days after the mailing or delivery, the cancellation shall be effective. Provided, however, an insurer may eliminate the reason for such cancellation from any notice mailed to an additional insured or lienholder under the policy.

[2/1/80, 7/1/97; 13.8.4.8 NMAC - Rn, 13 NMAC 8.4.8, 12/31/07]

13.8.4.9 NON-RENEWAL OF POLICIES: If an insurer or an agent elects not to renew a policy of insurance, the insurer or agent making such election shall mail to the insured, not less than thirty (30) days prior to the expiration date of the policy, a written notice of non-renewal. This section shall not apply to the transfer of a policy upon its expiration to an affiliated insurer.

[2/1/80, 7/1/97; 13.8.4.9 NMAC - Rn & A, 13 NMAC 8.4.9, 12/31/07]

13.8.4.10 NOTICE OF CHANGE IN LIMITS: Written notice of any change in the required limits of underlying coverage for an "umbrella" or "excess liability" policy shall be mailed or delivered to the insured not less than thirty (30) days prior to the expiration date of the affected policy.

[2/1/80, 7/1/97; 13.8.4.10 NMAC - Rn, 13 NMAC 8.4.10, 12/31/07]

13.8.4.11 CHANGE IN POLICY FORM: An insurer shall provide written notice to its agents or its insureds of any change in policy form not less than thirty (30) days prior to the effective date of the change. Change in policy form means any change of limitation, restriction in coverage, or change in deductible.

[2/1/80, 7/1/97; 13.8.4.11 NMAC - Rn, 13 NMAC 8.4.11, 12/31/07]

13.8.4.12 NOTICE OF CHANGE IN INSURER: If an insurer, upon expiration of a policy of insurance, transfers the policy to an affiliated insurer, the following notification requirements shall apply.

A. For personal insurance policies, the transferring insurer shall send the insured a written notice of change of insurer. Such notice shall be mailed to the insured not less than thirty (30) days prior to the expiration date of the policy and shall include the name and contact information of the insurer accepting the transferred policy, the reason for the transfer, the dollar amount of any increase or decrease in premium resulting from the transfer and any restrictions or changes in coverage terms or provisions resulting from the transfer.

B. For other than personal insurance policies, the transferring insurer shall provide written notice of change of insurer to the agent or the insured prior to the expiration date of the policy and shall include the name and contact information of the insurer accepting the transferred policy and the reason for the transfer.

[13.8.4.12 NMAC - N, 12/31/07]

HISTORY OF 13.8.4 NMAC:

Pre-NMAC History: The material in this rule was derived from that previously filed with the state records center: INS 79-3, Rule Governing Cancellation, Nonrenewal or Change in Coverages of Property and Casualty Insurance Policies, filed 12/28/79.

History of Repealed Material: [RESERVED]