

TITLE 11 LABOR AND WORKERS COMPENSATION
CHAPTER 3 EMPLOYMENT SECURITY
PART 200 PROCEDURES AND REQUIREMENTS REGARDING PROMULGATION OF
RULES AND REGULATIONS

11.3.200.1 ISSUING AGENCY: New Mexico Department of Workforce Solutions, Employment Security Division, P.O. Box 1928, Albuquerque, NM 87103
[7-15-98; 11.3.200.1 NMAC - Rn & A, 11 NMAC 3.200.1, 01-01-2003; A, 11-15-2012]

11.3.200.2 SCOPE: General public
[7-15-98; 11.3.200.2 NMAC - Rn, 11 NMAC 3.200.2]

11.3.200.3 STATUTORY AUTHORITY: NMSA 1978 Sections 51-1-1 to 51-1-59.
[7-15-98; 11.3.200.3 NMAC - Rn & A, 11 NMAC 3.200.3, 01-01-2003]

11.3.200.4 DURATION: Permanent
[7-15-98; 11.3.200.4 NMAC - Rn, 11 NMAC 3.200.4, 01-01-2003]

11.3.200.5 EFFECTIVE DATE: July 15, 1998, unless a later date is cited at the end of a section.
[7-15-98; 11.3.200.5 NMAC - Rn & A, 11 NMAC 3.200.5, 01-01-2003]

11.3.200.6 OBJECTIVE: To explain the procedures and requirements governing promulgation, adoption, amendment and appeal of rules and regulations for the New Mexico department of workforce solutions employment security division.
[7-15-98; 11.3.200.6 NMAC - Rn & A, 11 NMAC 3.200.6, 01-01-2003; A, 11-15-2012]

11.3.200.7 DEFINITIONS: [RESERVED]

11.3.200.8 THROUGH 11.3.200.200: [RESERVED]

11.3.200.201 NOTICE REGARDING PROMULGATION OF RULES:

- A. Prior to the adoption, amendment or repeal of any rule or regulation, the secretary shall:
- (1) publish one notice of its proposed action at least thirty days prior thereto in the New Mexico register and on the department's website;
 - (2) notify any person or group filing a written request, the request to be renewed yearly, for notice of any proposed action that may affect that person or group, notification being by mail to the last known address of the person or group at least thirty days prior to the proposed action.

B. The notice in contemplated by 11.3.200.201 NMAC shall give the time and place of the proposed action, describe the subject matter of the proposed action and state the manner in which interested persons may present their views and the method by which copies of the proposed rule or regulation, proposed amendment or repeal of an existing rule or regulation may be obtained.
[7-15-98; 11.3.200.201 NMAC - Rn & A, 11 NMAC 3.200.201, 01-01-2003]

11.3.200.202 SUBMISSION BY INTERESTED PERSONS: Prior to the adoption, amendment or repeal of any rule or regulation, the secretary shall conduct a public hearing and afford all interested persons a reasonable opportunity to submit data, views and arguments orally or in writing concerning the proposed action; however, if the secretary finds that oral presentation is unnecessary or impracticable, the secretary may require submission to be made in writing.
[7-15-98; 11.3.200.202 NMAC - Rn & A, 11 NMAC 3.200.202, 01-01-2003; A, 11-15-2012]

11.3.200.203 CONSIDERATION AND ADOPTION BY SECRETARY: The secretary shall consider fully all written and oral submissions respecting the proposed regulatory action. All persons attending the public hearing or making oral or written submissions to be considered in connection with the proposed action shall be given a copy of the final rule or regulation upon filing.
[7-15-98; 11.3.200.203 NMAC - Rn & A, 11 NMAC 3.200.203, 01-01-2003]

11.3.200.204 EMERGENCY REGULATIONS: If the secretary finds that immediate adoption, amendment or suspension of a rule or regulation is necessary for preservation of the public peace, safety or general welfare, the secretary may dispense with the requirements of notice and hearing and adopt, amend or suspend a regulation as an emergency. The secretary's findings and a brief statement of the reasons for its findings shall be incorporated in the emergency rule or regulation, amendment or suspension. If an emergency rule or regulation, amendment or suspension shall remain in effect for longer than sixty days, notice as required in 11.3.200.201 NMAC shall be given within seven days after the emergency action.

[7-15-98; 11.3.200.204 NMAC - Rn & A, 11 NMAC 3.200.204, 01-01-2003]

11.3.200.205 FILING AND EFFECTIVE DATE: The secretary shall file each rule or regulation, amendment or repeal thereof in accordance with the State Rules Act, and each rule or regulation, amendment or repeal shall be effective after it is filed with the state records center and published in the New Mexico register. The secretary shall publish in the New Mexico register, in full or in part, all adopted rule or regulation, amendments or repeals.

[7-15-98; 11.3.200.205 NMAC - Rn & A, 11 NMAC 3.200.205, 01-01-2003; A, 11-15-2012]

11.3.200.206 PETITIONS FOR ADOPTION, AMENDMENT OR REPEAL OF RULES AND REGULATIONS:

A. Any interested person may petition the secretary requesting the promulgation, amendment or repeal of any rule.

(1) When any person is requesting the promulgation of a rule, the individual shall submit a petition which sets forth in full the proposed rule and includes all of the reasons for the promulgation of the requested rule.

(2) When any person requests the amendment or repeal of a rule or portion of a rule presently in effect, the individual shall submit a petition which sets forth in full the proposed amendment or repeal and includes all of the reasons for the proposed amendment or repeal.

B. All petitions shall be considered by the secretary who may, in the secretary's discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal or modification of any rule.

C. Within sixty days after submission of a petition, the secretary shall either deny the petition in writing, stating the reasons for the denial, or initiate rule making proceedings in accordance with Sections 11.3.200.201, 202 and 203 NMAC.

[7-15-98; 11.3.200.206 NMAC - Rn & A, 11 NMAC 3.200.206, 01-01-2003; A, 11-15-2012]

11.3.200.207 DECLARATORY RULINGS:

A. Any person whose interests, rights or privileges will be significantly affected by any provision of the Unemployment Compensation Law or any rule or regulation promulgated thereunder may petition the secretary for a declaratory ruling as to the applicability of to the law, rule or regulation.

B. Any person requesting a declaratory ruling shall submit a petition which sets forth the issues for which a declaratory ruling is requested.

C. The secretary shall consider the petition and within sixty days after submission of a petition notify the petitioner that no declaratory ruling is to be issued; or set a reasonable time and place for a public hearing upon the matter and give reasonable notification to the petitioner and the public of the time and place for such hearing and of the issue involved.

D. If a hearing is conducted, the secretary shall, within sixty days after the hearing, issue a declaratory ruling or notify the petitioner and the public that no declaratory ruling is to be issued.

[7-15-98; 11.3.200.207 NMAC - Rn & A, 11 NMAC 3.200.207, 01-01-2003; A, 11-15-2012]

HISTORY OF 11.3.200 NMAC:

Pre-NMAC HISTORY: The material in this part was derived from that previously filed with the State Records Center and Archives under: ESD 74-1, Unemployment Compensation Law of New Mexico Rules and Regulations of the Commission, filed 10-1-74; Regulation 201, Notice, filed 5-23-90; Regulation 202, Submission By Interested Persons, filed 5-23-90; Regulation 203, Consideration and Adoption by Secretary, filed 5-23-90; Regulation 204, Emergency Regulations, filed 5-23-90; Regulation 205, Filing, filed 5-23-90; Regulation 206, Petitions for Adoption, Amendment or Repeal of Regulations, filed 5-23-90; Regulation 207, Declaratory Rulings, filed 6-14-90.

History of Repealed Material: [RESERVED]