

This is an amendment to 11.2.3 NMAC Sections 10 and 29 to be effective 07/31/2023.

11.2.3.10 ORGANIZATION OF SAC: The SAC provides advice and guidance to the department on the operation of the state's apprenticeship system.

A. The SAC shall consist of three persons known to represent employers, three persons known to represent labor organizations, and three public representatives, appointed by the cabinet secretary of workforce solutions. Persons appointed to the council shall be familiar with apprenticeable occupations.

B. The secretary of workforce solutions and the secretary of public education, or their designees, shall be ex-officio, non-voting members of the SAC.

~~**B.**~~ **C.** SAC members shall be appointed as provided for in Section 50-7-3 NMSA, 1978. If a SAC member misses two consecutive meetings, unless for just cause beyond the member's control, the SAC shall recommend to the department that such member be replaced by a person who represents the same interest group.

~~**C.**~~ **D.** Officers of the SAC shall consist of a chairman and a vice-chairman. These officers will be elected annually at the third quarter regular meeting and shall assume office immediately upon election. The chairman and vice-chairman shall not be selected from the same interest group and shall not be eligible to succeed themselves. A former chairman or vice-chairman may be elected to the same office after having been out of that office for one year.

~~**D.**~~ **E.** The director shall serve as executive secretary and as an ex-officio, non-voting member of the SAC and as an ex-officio non-voting member of any committees created pursuant to Subsection E of 11.2.3.10 NMAC.

~~**E.**~~ **F.** Committees may be appointed by the SAC chairman to study, research, and make recommendations to the SAC on such matters as may be deemed to be appropriate by the SAC. Membership of such committees may be composed of SAC members, other interested persons, or a combination of SAC members and non-members.

[11.2.3.10 NMAC – Rp, 11.2.3.10 NMAC, 1/30/2018; A, 7/31/2023]

11.2.3.29 ENERGY TRANSITION ACT COMPLIANCE

A. The construction of New Mexico facilities that generate electricity for New Mexico retail customers, and that are not located on the customer side of an electricity meter, shall be subject to the requirements of Subsection B of NMSA Section 62-13-16 if the facilities are built as a result of competitive solicitations issued after July 1, 2020.

B. Subject to availability of qualified applicants, the construction of facilities that generate electricity for New Mexico retail customers shall employ apprentices from an apprenticeship program registered with ~~[NMDWS]~~ the department, the United States department of labor, OA, or another SAA if reciprocity was previously granted. Apprenticeship programs must be registered during the construction phase of a project at a minimum level as outlined in Subsection B of 62-13-16 for all persons employed for the project.

(1) A "project" for the purposes of this Section means any construction of a facility that generates electricity or transmits electricity for New Mexico retail customers.

(2) The number of apprentices required applies to each occupation or trade performing services during the project.

C. NMDWS shall be responsible for monitoring the project for the appropriate level of apprentices on the project and ensuring compliance.

(1) Upon receiving a funding award for construction of such a project, the general contractor shall submit a compliance plan including an outline for how the contractor will meet the required number of apprentices for the project and a list of subcontractors to NMDWS within 10 days of the award. The list of subcontractors shall be updated quarterly.

(2) Once a quarter, NMDWS shall initiate an investigation into the project to determine if the appropriate number of apprentices are being utilized for the project.

(3) During the investigation, NMDWS may request certified payroll records from the contractor or subcontractor which must be submitted to the Department within 10 days of the request.

(4) If during the investigation it is determined that a contractor or subcontractor is not compliant with these provisions, NMDWS shall issue a notice of non-compliance. The contractor or subcontractor shall have 10 days to become compliant.

(5) Failure to comply with the investigation or to adhere to the requirement for apprenticeship percentage will result in a referral to the Public Regulatory Commission with a recommendation to withhold future contract awards.

D. NMDWS will continue to encourage diversity among apprenticeship program participants, participation by the underrepresented in the industry associated with that apprenticeship program and participation from disadvantaged communities.

[11.2.3.28 NMAC – N, 1/1/2020; A, 7/31/2023]