

12 DEPARTMENT OF LABOR

170 BUREAU OF LABOR STANDARDS

Chapter 19: RULES GOVERNING APPRENTICESHIP IN CONSTRUCTION OF ENERGY GENERATION FACILITIES

Summary: The purpose of this chapter is to provide definitions and procedures for implementing apprenticeship standards in the construction of certain energy generation facilities pursuant to 26 MRS ch. 43 §3501 and §3502.

Section I: Application

These rules apply to construction employers who are engaged in the construction of a generation facility as defined in Section II.

Section II: Definitions

As set forth in 26 MRS §3501 or in this chapter, the following terms have the following meanings.

- A. “Qualified Apprentice.” Qualified Apprentice means a person in an apprentice program recognized by the United States Department of Labor or by the Maine Department of Labor and directly related to the work being performed.
- B. “Apprenticeable Occupation.” Apprenticeable Occupation has the same meaning as in 26 MRS §3201(2).
- C. “Available.” Available means either otherwise not fully employed or willing to consider an offer of employment during the phase of *construction of a generation facility* in which the relevant occupational skills are needed.
- D. “Bureau.” Bureau means the Bureau of Labor Standards within the Department of Labor.
- E. “Construction of a generation facility.” Construction of a generation facility means every phase of an operation to physically construct a facility and includes preparation of the site, erecting fencing and other protective structures to secure the site, maintenance and transport of materials on the site, and removal of equipment and debris when the operation is completed.
- F. “Director.” Director means the Director of the Bureau of Labor Standards.
- G. “Person constructing a generation facility.” Person constructing a generation facility means a general contractor or subcontractor, or other entity who has a significant measure of control over the *construction of a generation facility*.

- H. “Persons employed in the construction.” Persons Employed in the Construction means all persons employed in an *apprenticeable occupation* during any phase or time period of an operation to construct a generation facility, or during the entire duration of such an operation, or during some combination of those periods of time. A phase or time period of the operation may include an employer’s established pay period.

Section III: Availability of Apprentices

- A. In order to claim that an insufficient number of qualified apprentices were available to meet the required percentage, an employer must show that it made reasonable efforts to find and employ them. This may include evidence of having contacted or attempted to contact the Maine Apprenticeship Program, sponsors of apprenticeship training programs such as labor organizations and employers with a presence in Maine, or other appropriate sources.
 - i. A worker’s apparent or actual disability may not be offered as a reason for determining that a sufficient number of qualified apprentices were not available.

Section IV: Employer Self-Monitoring and Reporting

- A. A construction employer must demonstrate compliance with the statute by submitting to the Bureau a plan for locating and employing a sufficient number of qualified apprentices.
- B. The plan must be submitted prior to starting the construction project or prior to starting each phase of the construction project.
- C. When each phase of the construction project is completed, the employer must submit to the Bureau an interim report disclosing the results of its efforts to employ qualified apprentices including a clear explanation if they failed to hire a sufficient number of qualified apprentices during that phase of the project.
- D. When the entire project is completed, the employer must submit a final report also including a clear explanation if they failed to hire a sufficient number of qualified apprentices during the entire project.

Section V: Enforcement

- A. Enforcement of these rules and the laws upon which the rules are based will be the responsibility of the Bureau, under the direction of the Director.
- B. Each contractor and sub-contractor shall have payroll records available to a Bureau representative on each site covered by this statute.
 - i. The records must be current to within three days of the latest pay period that was paid by the contractor or sub-contractor.

- ii. The records must contain the name, trade or job title, and classification as an apprentice or otherwise, for each of that employer's workers that worked on the site for each payroll period.
 - iii. A contractor or subcontractor may comply with this provision by keeping the records for a site at a location within 10 miles of the site while the project is active, and reasonably accessible thereafter.
 - iv. These records must be retained, preserved, and open to inspection by the Bureau for at least three years following the completion of the project.
 - C. Each day a sufficient number of apprentices are not employed in accordance with the law and these rules is a separate violation.
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STATUTORY AUTHORITY:

26 MRS §42 and §3502

EFFECTIVE DATE:

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