

This is an amendment to sections 11.2.3 NMAC, Section 29, effective 6/25/2024.

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 Section 62-13-16 NMSA 1978 if the facilities are built as a result of competitive solicitations.

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 during the construction phase of a project at a minimum level as outlined in Subsection B of 62-13-16 NMSA 1978 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.

~~(3) For projects commencing after January 1, 2020 but before January 1, 2024, apprentices should comprise 10 percent of all persons employed for the project.~~

~~(4) For projects commencing after January 1, 2024 but before January 1, 2026, apprentices should comprise 17.5 percent of all persons employed for the project.~~

~~(5) For projects commencing after January 1, 2026, apprentices should comprise 25 percent of all persons employed for the project.~~

C. ~~[NMDWS]~~ The department shall be responsible for monitoring the project for the appropriate level of apprentices on the project and ensuring compliance.

(1) Upon receiving a notice to proceed ~~from the Public Regulation Commission (PRC)~~ for construction of such a project, the general contractor shall submit a compliance plan including ~~[an outline for how the contractor and]~~ a list of subcontractors of any tier that will meet the required number of apprentices [for the project and a list of subcontractors] to the department ~~[NMDWS within 10 days of the award. The list of subcontractors shall be updated quarterly].~~

~~(2) Once a quarter, the general contractor and all subcontractors of any tier shall provide a report to NMDWS of payroll records for all construction craft employees including name, address, employee classification, hours worked and wage and fringe benefits paid to the employee.~~

~~(3) If it is determined by NMDWS 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.]~~

~~(2) Every 90 days from the date of the initial plan, the general contractor shall submit a updated compliance plan.~~

~~(3) Contractors shall provide documentation demonstrating compliance within 10 days of a request for records from the department.~~

(4) Failure of a contractor to comply with the requirement for utilizing the required apprenticeship percentage will result in a referral to the ~~[Public Regulatory Commission]~~ PRC advising the Commission that the project is not in compliance with the provisions of the Energy Transition Act.

D. The department 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, 6/25/2024]