

July 12, 1983

U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION Bureau of Apprenticeship and Training Washington, D.C. 20213 Symbols: TDT/MRM	<u>Distribution:</u> A-539 A-544 (All Technicals)	<u>SUBJECT:</u> <u>CODE:</u> 607 Title 29 CFR 5, Davis-Bacon Trainee Program Approval
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PURPOSE: To provide instructions and guidance for approving trainee programs in accordance with Title 29 CFR 5 issued on April 29, 1983, with an effective date of June 28, 1983.

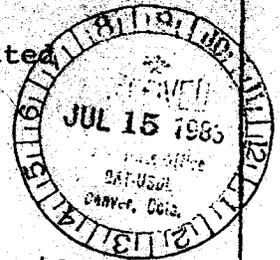
REFERENCE: The following references apply:

1. Bulletin 83-30, dated May 25, 1983, which transmitted amended 29 CFR 5
2. Amended Title 29 CFR 5 issued April 29, 1983
3. Amended Title 29 CFR 5 issued December 28, 1979
4. James P. Mitchell's memorandum dated July 22, 1975, to all BAT Regional Directors, Subject: 29 CFR 5a, which transmitted a copy of amended Part 5, effective August 20, 1975.
5. Circular 72-15, dated May 15, 1972, Subject: 29 CFR 5a

BACKGROUND: Amended Title 29 CFR 5, effective August 20, 1975, and amended Title 29 CFR 5, published December 28, 1979, Section 5.5(a)(4) identifies the Bureau of Apprenticeship and Training as the responsible agency in ETA for approving both apprenticeship and trainee programs pertaining to Davis-Bacon and related acts. Amended Title 29 CFR 5, effective June 28, 1983, deletes BAT as the ETA approving agency for trainee programs.

This deletion of BAT in the latest amended 29 CFR 5a was referred to the DOL Solicitor for review and comment. That response stated that "Since the same regulations contain a specific BAT designation for apprenticeship program certifications while only generally identifying ETA as the certifying agency for trainee programs, in our opinion, there is no implied BAT designation for trainee program certifications. Rather, it is within the discretion of the Assistant Secretary for Employment and Training as to which agency within ETA will be delegated responsibility to certify trainee programs."

BAT will continue as the ETA agency responsible for approving trainee programs. Section 5.15(b) of Part 5, effective August 20, 1975, and revised April 1979, provides that every trainee on a contract executed after August 20, 1975, must be individually certified in a program in accordance with BAT procedures, and



must be paid at the rate specified in the program for his level of progress. That section also provides that any employee not registered and participating in a program certified by BAT must be paid the wage for the classification of work actually performed. Similar provisions are contained in Section 5.16(b) of Revised Part 5, effective 6-28-83.

ACTION: BAT will continue to exercise the authority for approving trainee programs in accordance with instructions and criteria of BAT Circular 72-15, May 15, 1972.