

SPECIAL Report



NATIONAL ROOFING CONTRACTORS ASSOCIATION

Davis-Bacon "Helper" Regulations - 2/92 Update

We have good news to report on the long-awaited Davis-Bacon "helper" regulations. It took the Department of Labor (DOL) the past decade to promulgate them, followed by a lawsuit in which the regulations were upheld by U.S. District Court Judge Harold Greene as being consistent with the Davis-Bacon Act. But in 1991 Congress added language to a temporary appropriations bill to prohibit DOL from spending any funds to implement the regulations.

On January 29, 1992, The White House and DOL determined that the prohibition is no longer in effect, despite the pending AFL-CIO appeal of Judge Greene's decision in the U.S. Court of Appeals for the District of Columbia. Therefore, DOL regulations governing the use of semi-skilled "helpers" on federal and federally-assisted construction contracts subject to the Davis-Bacon and Related Acts are now in effect!

Section 5.2 (n) (4) defines a "helper" as follows:

A "helper" is a semi-skilled worker (rather than a skilled journeyman mechanic) who works under the direction of and assists a journeyman. Under the journeyman's direction and supervision, the helper performs a variety of duties to assist the journeyman such as preparing, carrying and furnishing materials, tools, equipment, and supplies and maintaining them in order; cleaning and preparing work areas; lifting, positioning, and holding materials or tools; and other related, semi-skilled tasks as directed by the journeyman. A helper may use tools of the trade at and under the direction and supervision of the journeyman. The particular duties performed by a helper vary according to area practice.

According to Acting Administrator John R. Fraser (DOL, Wage and Hour Division), "The new helper definition allows the duties of a helper to overlap, to some extent, the duties of the journeyman the helper assists." Section 5.5(a) (4) (iv) specifies the permissible ratio of helpers to journeyman on a project (up to two helpers for every three journeymen) if the helper classification is specified on a contract wage determination or is approved pursuant to the conformance procedure.

All federal construction contracts for which bids are solicited or negotiations concluded after January 29, 1992, should comply with the regulations. For more information, please call the NRCA Washington office at (202) 546-7584 or (800) 338-5765.

- Passenger vehicle (16 or more people) endorsement requires a knowledge and a skills test.
- Tank vehicle endorsement requires passing a knowledge test. (Tank vehicles are those that are designed to transport any liquid or gaseous materials with a tank that is either permanently or temporarily attached to the vehicle or the chassis; however, this definition does not include portable tanks having a rated capacity under 1,000 gallons.)
- Hazardous materials endorsement requires passing a knowledge test. This endorsement is required for drivers of vehicles that must be placarded.

In order to help you assist your drivers in passing the CDL knowledge and skills tests, NRCA has negotiated an arrangement with J. J. Keller and Associates to offer you the following package containing three CDL video training programs and study guide at a discounted rate.

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If you have any questions, please don't hesitate to call me at 1-800-323-9545.

Sincerely,
N R C A



Tom Shanahan
Director, Risk Management