

23 CFR Part 634 Worker Visibility

Preface

- A Final Rule
- Pursuant to Section 1402 of the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
- Published by Federal Highway Administration (FHWA), November 24, 2006

Final Rule

- All workers within the right-of-way of a Federal-aid highway who are exposed either to traffic (vehicles using the highway for purposes of travel) or to construction equipment within the work area shall wear high-visibility safety apparel.

Compliance Date

- No later than November 24, 2008

Purpose

- Decrease likelihood of worker fatalities or injuries caused by motor vehicles and construction vehicles and equipment.
“The need to be seen (high-visibility apparel) is a critical issue for worker safety.”

Definitions

- **Close proximity** means within the highway right-of-way on Federal-aid highways
- **High-visibility safety apparel** means personal protective safety clothing that is intended to provide conspicuity during both daytime and nighttime usage, and was defined as that meeting the Performance Class 2 or 3 requirements of ANSI/ISEA 107-2004
- **Workers** means people on foot whose duties place them within the right-of-way of a Federal-aid highway, *such as...*
 - Highway construction and maintenance forces, survey crews, utility crews
 - Responders to incidents within the highway right-of-way (example: tow truck)
 - Law enforcement personnel when directing traffic, investigating crashes, and handling lane closures, obstructed highways, and disasters

Frequently Asked Questions

Which ANSI 107-2004 garment classes are covered?

- Class 2 and 3.

What is the minimum garment class requirement?

- Class 2.

Is law enforcement exempted?

- Only with respect to specific activities, such as, traffic stops and pursuit and apprehension of suspects.

Does the rule encompass ANSI 207-2006?

- Not at this time. However, FHWA has reviewed the ANSI 207-2006 Public Safety Vest (PSV) standard and found it compatible with ANSI Class 2 standards.
- In the 2009 Manual on Uniform Traffic Control Devices (MUTCD) Revision Proposals, they are recommending to add the PSV as an option for incident responders and law enforcement personnel, and has published a letter stating this.

Who are “responders to incidents” that are subject to this rule?

- Tow-truck drivers, media representatives, emergency medical services and rescue teams, and military personnel on foot within the right-of-way of a Federal-aid highway.

Does the rule apply to temporary workers and volunteers?

- Yes.

Does this ruling affect MUTCD (All Streets and Highways)?

- Not at this time. FHWA is proposing the change to include all roadways as part of the amendments to the next edition of MUTCD.
- When the 2009 MUTCD issues, FHWA has proposed that 23 CFR part 634 be absorbed into the MUTCD with some additions.

Does OSHA have enforcement authority for this regulation?

- Yes, under the Occupational Safety & Health Act of 1970, General Duty Clause, Section 5a(1).



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