

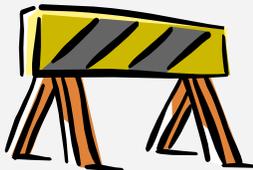
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Index: Safety

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Construction Advisory
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BJO:JG

Worker Visibility

The Federal Highway Administration (FHWA) adopted a rule regarding the use of high visibility clothing for all workers on Federal-aid highways. MDOT supports this rule as we believe worker safety is paramount, and the use of high visibility clothing is but one way to help ensure all workers go home at the end of their shifts.

In November 2006, the FHWA issued 23 CFR, Part 634, Worker Visibility Final Rule. The rule states, "All workers within the right-of-way of a Federal-aid highway who are exposed either to traffic or to construction equipment within the work area shall wear high-visibility safety apparel." The compliance date for this rule was November 24, 2008. The rule defines high visibility safety apparel as "personal protective clothing that is intended to provide conspicuity during both daytime and nighttime usage, and that meets the Performance Class 2 or 3 of the ANSI/ISEA (American National Standard Institute) 107-2004." Many of the contractors' field employees comply with this requirement; however, project delivery staff should incorporate the Special Provision for High Visibility Clothing (03SP104[D]) into any projects that do not contain it already. Process a contract modification to incorporate this special provision at no cost to the contract.

Subsection 104.10 of the *2003 Standard Specifications for Construction* states, in part, the following:

... The Contractor shall comply with all federal, state, and local laws and regulations governing the construction methods and the furnishing and use of all safeguards, safety devices, protective equipment, and environmental and hazardous materials controls.

Therefore, issue a Notice of Non-Compliance with Contract Requirements (Form 1165) to construction contractors when they do not comply with the *Special Provision for High Visibility Clothing*. Furthermore, as this is a primary safety issue, use a contractor performance evaluation (both interim and final) to document issues with compliance to this new federal requirement.

The Real Estate Division's Utility Coordination and Permits Section sent notification of the high visibility clothing requirements to all annual permit holders on November 25, 2008. Please attach the notice to all individual permit approval packages and issue a Stop Work Order Notice of Non-Compliance With Permit Requirements (Form 2288) to permit holders (including utility companies) that do not comply with the high visibility clothing requirements.

The Worker Visibility Final Rule applies to all workers within the right-of-way of a federal aid highway. In addition to our contractors and annual permit holders, this requirement applies to consultants, municipal, and county agencies, as well as contract counties performing any type of work on federal aid roads.

Please share this construction advisory with local agencies and consultants within your jurisdiction, as well as your TSC utility/permit staff.