

Rule on Worker Visibility (High-Visibility Safety Apparel)

Q. What is the rule?

A. 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.

Q. Where is the rule located?

A. Title 23 of the Code of Federal Regulations (CFR) Part 634. Also published in the Federal Register, on November 24, 2006 and available at <http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/pdf/E6-19910.pdf>

Q. When is the rule in effect?

A. November 24, 2008

Q. Why was the rule drafted?

A. Congress, in Section 1402 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) directed the Secretary of Transportation to issue regulations to decrease the likelihood of worker injury and maintain the free flow of vehicular traffic by requiring workers whose duties place them on or in close proximity to a Federal-aid highway to wear high-visibility safety apparel.

Q. What is the purpose of the rule?

A. To decrease the likelihood of worker fatalities or injuries caused by motor vehicles and construction vehicles and equipment while working within the right-of-way on Federal-aid highways.

Q. What qualifies as high-visibility safety apparel?

A. High-visibility safety apparel means personal protective safety clothing that is intended to provide conspicuity during both daytime and nighttime usage, and that meets the Performance Class 2 or 3 requirements of the ANSI/ISEA 107-2004 publication entitled “American National Standard for High-Visibility Safety Apparel and Headwear.” This publication is available for purchase from the International Safety Equipment Association (ISEA) at 1901 N. Moore Street, Suite 808, Arlington, VA 22209, <http://www.safetvequipment.org>.

A. Who qualifies as a “worker” under the rule?

A. 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, and law enforcement personnel when directing traffic, investigating crashes, and handling lane closures, obstructed roadways, and disasters within the right-of-way of a Federal-aid highway.

Q. Why is the definition of worker so expansive?

A. FHWA believes that all workers within the public right-of-way of Federal-aid highways deserve the same safety considerations. High visibility is one of the most prominent needs for workers who must perform their tasks near moving vehicles or equipment. The need to be seen by those who drive or operate vehicles or equipment is recognized as a critical issue for the safety of all workers. All workers must devote their attention to completing their assigned tasks and might not completely focus on the hazardous surroundings where they are working. Thus it is imperative that the approaching motorist or equipment operator be able to see and recognize all workers. The sooner a worker in or near the path of travel is seen, the more time the operator has to avoid an accident.

Q. What is a Federal-aid highway?

A. "Federal-aid highways" means highways on the Federal-aid highway systems (the National Highway System and the Dwight D. Eisenhower National System of Interstate and Defense Highways, commonly referred to as the "Interstate System") and all other public roads that are not classified as local roads or rural minor collectors.

Q. Is it correct that the rule does not apply to local roads and rural minor collectors.

A. Yes, the Congress limited the application of the rule. However, the 2003 Manual on Uniform Traffic Control Devices does provide strong guidance for Worker Safety in Section 6D.03. The MUTCD states, “Worker Safety Apparel- all workers exposed to the risks of moving roadway traffic or construction equipment should wear high-visibility safety apparel meeting the requirements of ISEA and labeled as ANSI 107-1999 standard performance for Class 1, 2, or 3 risk exposure. Also, individual State, local, and agencies may have stricter requirements for their workers.