

# Worker Visibility Rule



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# Presentation Outline

## Worker Visibility Rule (23 CFR 634):

- Genesis of the rule
- Process
- Content of the rule
- Next steps
- Issues



# Worker Visibility Rule: Genesis

SAFETEA-LU, Section 1402:

## Worker Injury Prevention and Free Flow of Vehicular Traffic

Required FHWA to “issue regulations to decrease the likelihood of worker injury and to 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 garments

# Worker Visibility Rule: Genesis

SAFETEA-LU, Section 1402:

Definitions:

- Worker
- High-visibility garments
- Close proximity to a Federal-aid highway



# Worker Visibility Rule: Process

- FHWA research and data gathering
- Proposed rule
- Public comment period
  - More than 125 responses were received
- Final rule published on November 24, 2006
- Effective date: November 24, 2008

# Worker Visibility Final Rule (November 24, 2006)

67792 Federal Register / Vol. 71, No. 226 / Friday, November 24, 2006 / Rules and Regulations

g.4. Glass or glass lined (including vitrified or enameled coatings);  
g.5. Tantalum or tantalum alloys;  
g.6. Titanium or titanium alloys;  
g.7. Zirconium or zirconium alloys; or  
g.8. Niobium (columbium) or niobium alloys.

h. Multi-walled piping incorporating a leak detection port, in which all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:

h.1. Alloys with more than 25% nickel and 20% chromium by weight;  
h.2. Fluoropolymers;  
h.3. Glass (including vitrified or enameled coatings or glass lining);  
h.4. Graphite or carbon-graphite;  
h.5. Nickel or alloys with more than 40% nickel by weight;  
h.6. Tantalum or tantalum alloys;  
h.7. Titanium or titanium alloys;  
h.8. Zirconium or zirconium alloys; or  
h.9. Niobium (columbium) or niobium alloys.

i. Multiple-seal and seal-less pumps with manufacturer's specified maximum flow-rate greater than 0.6 m<sup>3</sup>/hour, or vacuum pumps with manufacturer's specified maximum flow-rate greater than 5 m<sup>3</sup>/hour (under standard temperature (273 K (0 °C)) and pressure (101.3 kPa) conditions), and casings (pump bodies), preformed casing liners, impellers, rotors or jet pump nozzles designed for such pumps, in which all surfaces that come into direct contact with the chemical(s) being processed are made from any of the of the following materials:

i.1. Alloys with more than 25% nickel and 20% chromium by weight.

Dated: November 16, 2006.

**Christopher A. Padilla,**  
*Assistant Secretary for Export Administration.*

[FR Doc. E6-19825 Filed 11-22-06; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 634

[FHWA Docket No. FHWA-2005-23200]

RIN 2125-AF11

#### Worker Visibility

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule.

**SUMMARY:** Pursuant to Section 1402 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), this final rule establishes a policy for the use of high-visibility safety apparel. The FHWA establishes a new Part in title 23, Code of Federal Regulations (CFR) that requires the use of high-visibility safety apparel and provides guidance on its application. This rulemaking applies only to workers who are working within the rights-of-way of Federal-aid highways. The FHWA is taking this

comments received may be viewed online through the Document Management System (DMS) at <http://dms.dot.gov>. The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's Web page at: <http://www.access.gpo.gov/nara>.

#### Background

On April 24, 2006, at 71 FR 20925, the FHWA published a NPRM proposing to establish a policy for the use of high-visibility safety apparel for workers who are working within the Federal-aid highway rights-of-way. This NPRM proposed regulations implementing the requirements of Section 1402 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109-59; August 10, 2005), which directed the Secretary of Transportation to, within one year, 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. The comment period for the NPRM closed

# Worker Visibility Rule: Content

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

23 CFR Part 634.3

# Worker Visibility Rule: Content

- “Worker” 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

# Worker Visibility Rule: Content

- “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”
- “Close proximity” means within the highway right-of-way of a Federal-aid highway

# Worker Visibility Rule: Content

- Requires ANSI Class 2 or 3 apparel for all workers within the rights-of-ways of Federal-aid highways
- Includes incident responders as well as volunteer workers
- Includes some exceptions for law enforcement officers



# Worker Visibility Rule: Next Steps

Proposed MUTCD provisions:

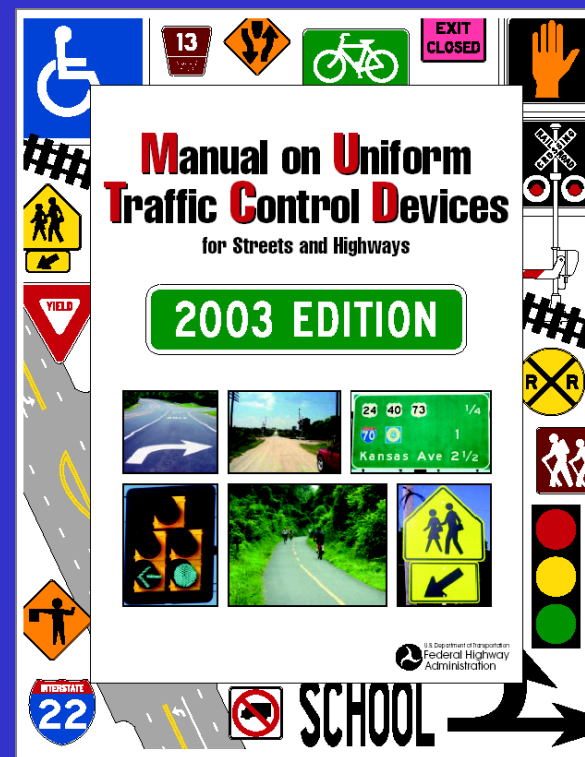
- Required for all workers within the public right-of-way
- Applies to all roads, not just Federal-aid highways
- Option for law enforcement and first responders to use new ANSI “public safety vests”



# Worker Visibility Rule: Next Steps

## Notice of Proposed Amendments (NPA) to the MUTCD:

- Published in the Federal Register on January 2, 2008
- Deadline for comments to the docket was July 31, 2008
- All of the NPA documents can be viewed on the MUTCD website at: <http://mutcd.fhwa.dot.gov>



# Next Edition of the MUTCD

- FHWA's MUTCD team will review and address all comments received in response to NPA
- The final rule should be ready to review by FHWA management by mid-2009
- After the final rule is published, agencies will have 2 years to adopt the provisions included in the MUTCD

# Other Issues

- ANSI 107-2004 vs. ANSI 207-2006
- Applicability of the worker visibility rule for firefighters

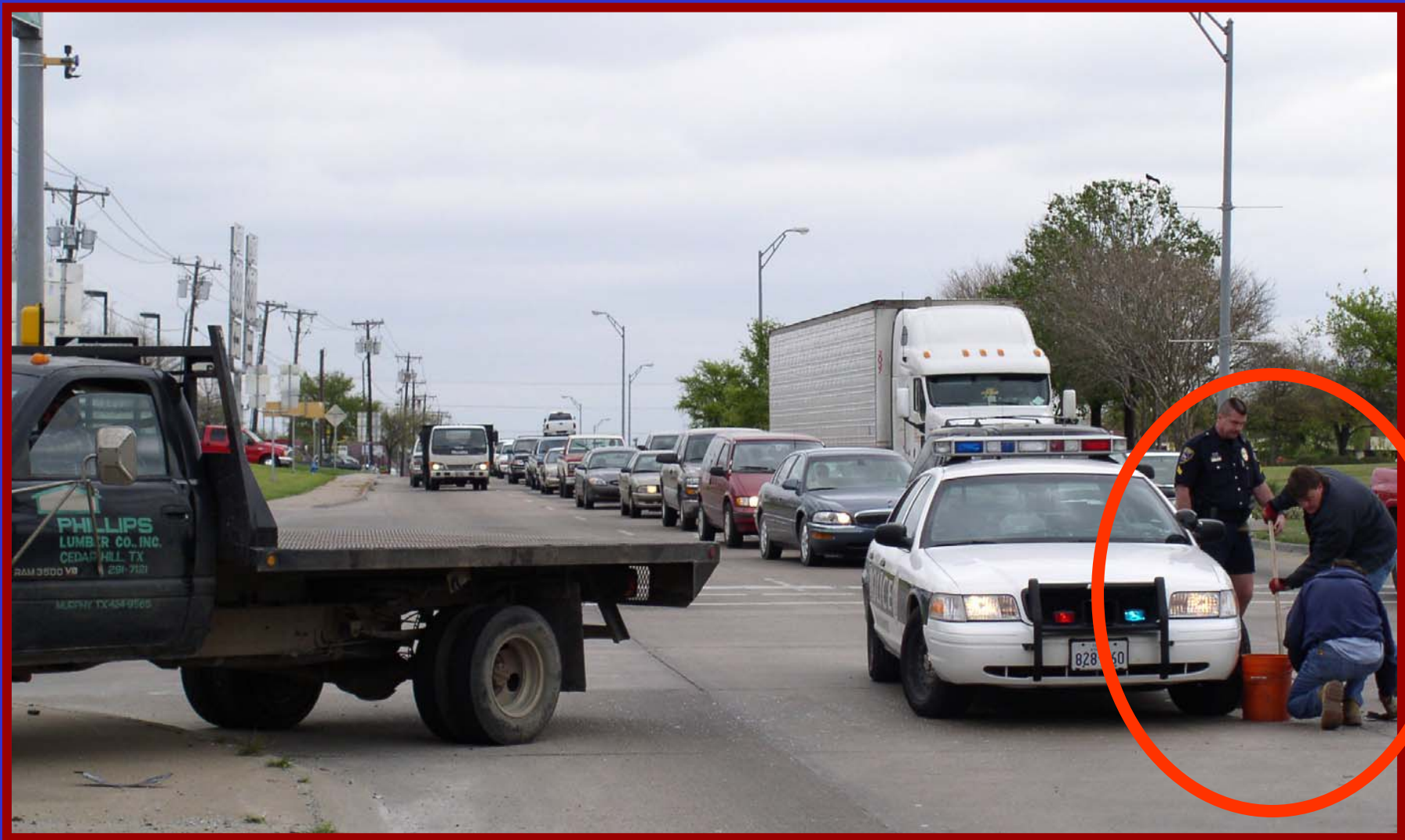


**The following slides include  
examples of proper visibility  
and improper visibility**

# Typical European crash scene



# Typical U.S. crash scene



The shortcoming  
of wearing NO vest!



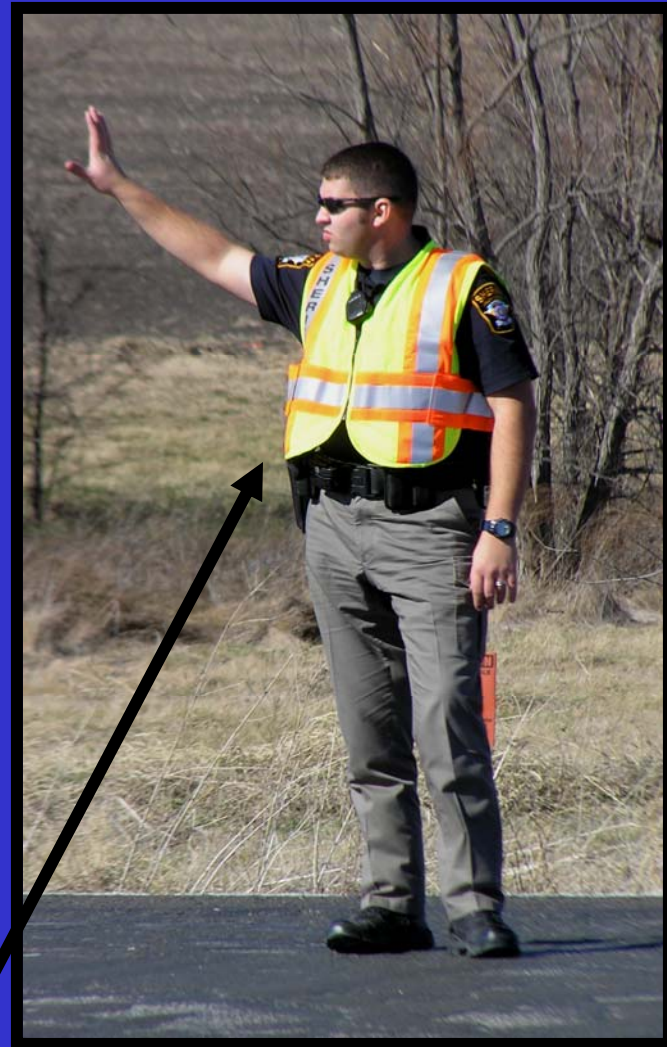


**ANSI has a second vest standard:  
the ANSI 207 “Public Safety Vest”**

ANSI 107 High-Visibility Vest



ANSI 207 Public Safety Vest



Shorter length  
to allow access to  
items on belt

# Tow-truck driver struck and killed in Manteo, VA

The Virginian-Pilot © March 27, 2004

- ✓ A tow-truck driver who tried to clean the debris from the roadway after a highway crash was struck by two vehicles and killed on Thursday
- ✓ Just finished hooking a damaged car to the wrecker
- ✓ Stepped into the roadway with a push broom



NO ve

Vest

NO vest!



# Thank You!

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