

FHWA Regulation 23 CFR Part 634 – Worker Visibility

“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. Firefighters or other emergency responders working within the right of way of a Federal-aid highway and engaged in emergency operations that directly expose them to flame, fire, heat, and/or hazardous materials may wear retroreflective turn out gear that is specified and regulated by other organizations, such as the National Fire Protection Association. Firefighters or other emergency responders working within the right of way of a Federal-aid highway and engaged in any other types of operations shall wear high visibility safety apparel.”

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; firefighters and other emergency responders when they are not directly exposed to flame, fire, heat, and/or hazardous materials; 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.”

FHWA Regulation 23 CFR Part 634 – Worker Visibility went into effect on November 24, 2008 and applies to **all** personnel within the right of way of a Federal-aid highway (i.e. highway/street construction and maintenance crews - including flaggers, inspectors, engineering personnel, survey crews, utility crews, emergency responders, etc.). This regulation applies to all projects, including private utilities and developments, which are located within the right of way of a Federal-aid highway or are funded in whole or in part by Federal dollars regardless of location. More information is available at the following web site:

<http://www.thefederalregister.com/d.p/2008-11-21-E8-27671>

There will be a 0% tolerance on non-compliance with the new high-visibility worker regulation. Federally funded City of Lincoln projects that are not in compliance risk losing funding for any work completed while not in compliance or altogether. No warnings will be given to the City, only notices of non-payment of federal dollars for work completed while noncompliant. Contractors will be responsible for making sure all of their employees, including subcontractors, are in compliance with the regulation at all times.

The City will be enforcing this regulation on all projects, not just those with federal funds. If the City finds a project not in compliance, we will consider shutting down the project or the specific operation until the situation is rectified. The Contractor will not be compensated for this loss of time either monetarily or additional contract time. Compliance with the regulation also means wearing the appropriate performance class of safety gear with the proper reflectivity (dirty and grimy safety gear is not adequate). Most of the vests have a certain number of washings (25) they can tolerate before needing to be replaced and a vest that is worn daily can expect to have a service life of 6 months (depending on several factors). More information and photo examples regarding compliant high-visibility safety gear and replacement can be found on NDOR's web site at the following link:

<http://www.dor.state.ne.us/ref-man/WorkerVisibility.pdf>