Worker Visibility

In 2006, the Federal Highway Administration (FHWA) issued 23 CFR, Part 634, Worker Visibility Final Rule, which required that, “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.” This rule had a compliance date of November 24, 2008. This rule has been incorporated into the 2009 Federal Edition of the Manual on Uniform Traffic Control Devices (MUTCD) and thus also into the 2011 Michigan MUTCD and expanded the worker visibility application to all public roads effective December 31, 2011.

The MMUTCD, Section 6D.03, standard states that:

All workers, including emergency responders, within the right-of-way who are exposed either to traffic (vehicles using the highway for purposes of travel) or to work vehicles and construction equipment within the TTC zone shall wear high-visibility safety apparel 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” (see Section 1A.11), or equivalent revisions, and labeled as meeting the ANSI 107-2004 standard performance for Class 2 or 3 risk exposure, except as provided in paragraph 5. A person designated by the employer to be responsible for worker safety shall make the selection of the appropriate class of garment.

A special provision for High Visibility Clothing (12SP104[B]) was issued in support of the FHWA Final Rule until such time that the MMUTCD was issued and the compliance date has passed. This special provision has been removed, but should a contractor not comply with the worker visibility requirements as put forth in the MMUTCD a Notice of Non-Compliance with Contract Requirements (Form 1165) should be issued. Furthermore, as this is a primary safety issue, use a contractor performance evaluation (both interim and final) to document issues with compliance to this federal and MDOT requirement.

Subsection 104.07.B of the 2012 Standard Specifications for Construction states, in part, the following:

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

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