



U.S. Department
of Transportation
**Federal Highway
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

April 1, 2010

In Reply Refer To: HOTO-1

Mr. Tim J. Gardner
3M Occupational Health and Environmental Safety Division
3M Center 235-2E-91
St. Paul, MN 55144-1000

Dear Mr. Gardner:

Thank you for your February 25 letter requesting an official interpretation regarding whether delivery personnel are included in the definition of "worker" in Section 1A.13 (Definition 256) of the Manual on Uniform Traffic Control Devices (MUTCD), and depending upon the answer to that question, are they required by Paragraph 4 of Section 6D.03 to wear high-visibility apparel when working within the right-of-way of a street or highway.

The revisions to Section 6D.03 in the 2009 MUTCD incorporated the requirements that were included in 23 CFR 634. The same definition of "worker" is included in Part 1 that was used in the Code of Federal Regulations. Therefore, our interpretation of this Section is the same as was explained in the Preamble to the Final Rule establishing 23 CFR 634. "Workers" perform a majority of their duties within the right-of-way of a roadway open to public travel. The examples listed in the definition include those persons normally considered as roadway workers, maintenance and construction personnel, as well as emergency responders to incidents within the roadway. Emergency responders to incidents outside of the right-of-way are exempted from these requirements, unless they are performing duties that require them to be exposed to traffic. For example, a firefighter that is battling a house fire would generally not be within the right-of-way of a public road, but the personnel operating the pumper equipment might be and therefore would have to wear high-visibility garments.

Delivery personnel would generally not perform a majority of their work within the right-of-way and be exposed to traffic, so they would generally not be considered a "worker" for this application. However, it is not practical to make blanket statements about a general class of personnel, such as delivery personnel, without knowing exactly how and where they accomplish their duties. Each agency or company that employs delivery personnel should assess the hazards involved with the operations within their control and make a determination as to whether the definition of "worker" would apply to their employees in a given situation. This assessment is the "worker safety planning" that is described in Item E of Paragraph 3 of Section 6D.03.



For recordkeeping purposes, we have assigned the following official interpretation number and title: "6(09)-002 (I) – High-visibility apparel for delivery personnel." Please refer to this number in any future correspondence regarding this topic.

Thank you for your interest in improving the clarity of the provisions contained in the MUTCD. I trust this clarifies the intent of the MUTCD. Please contact Mr. Ken Wood at ken.wood@dot.gov if you have any questions concerning this matter.

Sincerely yours,

A handwritten signature in black ink, reading "Mark R. Kehrli". The signature is written in a cursive style with a period at the end.

Mark R. Kehrli
Director, Office of Transportation
Operations