

OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD
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SECOND NOTICE OF PROPOSED FURTHER MODIFICATIONS TO

CALIFORNIA CODE OF REGULATIONS
TITLE 8, Division 1, Chapter 4, Subchapter 4, Article 11,
Sections 1598 and 1599 of the Construction Safety Orders

Use of High Visibility Apparel

Pursuant to Government Code Section 11346.8(c), the Occupational Safety and Health Standards Board (Standards Board) gives notice of the opportunity to submit written comments on the above-named regulations in which further modifications are being considered.

On October 16, 2008, the Occupational Safety and Health Standards Board held a Public Hearing to consider revisions to Title 8, Division 1, Construction Safety Orders, Sections 1598 and 1599. The Standards Board received oral and written comments on the proposed modifications. The regulations were modified as a result of these comments, and on March 5, 2009, a 15-Day Notice was issued.

In response to stakeholder and Board Member comments at the April 16, 2009, Standards Board Meeting, the Board directed staff to revisit this proposal regarding the labeling and selection of high visibility apparel. Therefore, this second 15-Day Notice is proposed.

A copy of the text with all modifications clearly indicated is attached for your information.

Pursuant to Government Code Section 11346.8(d), notice is also given of the opportunity to submit comments concerning the addition to the rulemaking file of the following document relied upon:

ADDITIONAL DOCUMENT RELIED UPON

- California Manual on Uniform Traffic Control Devices for Streets and Highways (Manual), Part 6, Temporary Traffic Control, September 26, 2006, published by the State Department of Transportation, Section 6E.02, High-Visibility Safety Apparel, Page 6E-1.

This document is available for review during normal business hours at the Standards Board Office located at the address listed below.

Any written comments on these modifications must be received by 5:00 p.m. on May 20, 2009, at the Occupational Safety and Health Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833. Comments may also be sent by fax to (916) 274-5743 or emailed to oshsb@dir.ca.gov. This proposal will be scheduled for re-adoption at a future Business Meeting of the Occupational Safety and Health Standards Board.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed action is open to public inspection Monday through Friday, from 8:00 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, California.

Inquires concerning the proposed modifications may be directed to the Executive Officer, Marley Hart at (916) 274-5721.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Marley Hart, Executive Officer

Date: April 30, 2009

Further Modifications to the Original Proposal

(Regulatory language to be deleted is shown in bold and double strike-out and new language is shown in bold and double underscore.)

**STANDARDS PRESENTATION
TO
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

PROPOSED STATE STANDARD,
TITLE 8, DIVISION 1, CHAPTER 4

Amend Section 1598 to read:

§1598. Traffic Control for Public Streets and Highways.

(a) Where a hazard exists to employees because of traffic or haulage conditions at work sites that encroach upon public streets or highways, a system of traffic controls in conformance with the "California Manual on Uniform Traffic Control Devices for Streets and Highways, September 26, 2006," which is herein incorporated by reference and referred to as the "Manual", published by the State Department of Transportation, shall be required so as to abate the hazard.

NOTE: Additional means of traffic control, such as continuous patrol, detours, barricades, or other techniques for the safety of employees may be employed.

(b) Specifications for the size and design of signs, lights, and devices used for traffic control shall be as described in the "Manual", pursuant to the provisions of California Vehicle Code Section 21400, which is incorporated by this reference.

(c) Employees (on foot) exposed to the hazard of vehicular traffic shall wear ~~orange, strong yellow green, or fluorescent versions of these colored~~ warning garments such as vests, jackets, or shirts labeled as meeting manufactured in accordance with the requirements of the American National Standards Institute (ANSI)/International Safety Equipment Association (ISEA) 107-2004, High Visibility Safety Apparel and Headwear. ~~During rainy weather, employees exposed to the hazard of vehicular traffic may wear orange, strong yellow green, or yellow rainwear.~~

(d) During hours of darkness, warning garments shall be retroreflective and labeled as meeting shall be manufactured in accordance with the requirements of the American National Standards Institute (ANSI)/International Safety Equipment Association (ISEA) 107-2004, High Visibility Safety Apparel and Headwear. The retroreflective material shall be visible at a minimum of 1,000 feet. ~~The retroreflective clothing, or the retroreflective material added to the clothing, shall have a minimum of one horizontal stripe around the torso.~~ White outer garments with retroreflective material that meets the above requirements may be worn during hours of darkness but not during snow or fog conditions, in lieu of colored vests, jackets and/or shirts.

(e) The employer shall select the proper type (class) of high visibility safety apparel ~~and headwear~~ for a given occupational activity by consulting the Manual, apparel manufacturer, or ANSI/ISEA 107-2004, Appendix B or other appropriate source of such information such as, but not limited to, the American Traffic Safety Services Association (ATSSA).

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.

**STANDARDS PRESENTATION
TO
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

PROPOSED STATE STANDARD,
TITLE 8, DIVISION 1, CHAPTER 4

Amend Section 1599 to read:

§1599. Flaggers.

(a) Flaggers shall be utilized at locations on a construction site where barricades and warning signs cannot control the moving traffic.

(b) When flaggers are required, they shall be placed in relation to the equipment or operation so as to give effective warning.

(c) Placement of warning signs shall be according to the California Manual on Uniform Traffic Control Devices for Streets and Highways, September 26, 2006, published by the State Department of Transportation, which is herein incorporated by reference and referred to as the "Manual."

(d) Flaggers shall wear ~~orange, strong yellow green, or fluorescent~~ versions of these colored warning garments such as vests, jackets, or shirts ~~labeled as meeting~~ labeled as meeting manufactured in accordance with the requirements of the American National Standards Institute (ANSI)/International Safety Equipment Association (ISEA) 107-2004, High Visibility Safety Apparel and Headwear. ~~Rainwear, when worn, shall be orange, strong yellow green, or yellow.~~

(e) During the hours of darkness, flaggers' stations shall be illuminated such that the flagger will be clearly visible to approaching traffic and flaggers shall be outfitted with reflectorized garments ~~and labeled as meeting~~ manufactured in accordance with the requirements of the American National Standards Institute (ANSI)/International Safety Equipment Association (ISEA) 107-2004, High Visibility Safety Apparel and Headwear. The retroreflective material shall be visible at a minimum distance of 1,000 feet. ~~The retroreflective clothing, or the retroreflective material added to the clothing, shall have a minimum of one horizontal stripe around the torso.~~ White outer garments with retroreflective material that meets the above requirements may be worn during hours of darkness but not during snow or fog conditions, in lieu of colored vests, jackets and/or shirts.

(f) The employer shall select the proper type (class) of high visibility safety apparel ~~and headwear~~ for a given occupational activity by consulting the Manual, apparel manufacturer, ~~or ANSI/ISEA 107-2004, Appendix B or other appropriate source of such information such as, but not limited to, the American Traffic Safety Services Association (ATSSA).~~

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.