



COMMONWEALTH of VIRGINIA
DEPARTMENT OF LABOR AND INDUSTRY

C. Ray Davenport
COMMISSIONER

Main Street Centre
600 East Main Street, Suite 207
Richmond, Virginia 23219
PHONE (804) 371-2327
FAX (804) 371-6524

July 7, 2016

C. Brian Bacon, SHRM-CP, PHR
Corporate Relations Director
David A. Nice Builders, Inc.
4571 Williamsburg, VA 23188

Dear Mr. Bacon:

This is in response to your June 30, 2016 letter addressed to the Jennifer Rose, Safety Program Director, Virginia Department of Labor and Industry.

You ask for guidance regarding the use of fluorescent safety shirts in reference to the Virginia Occupational Safety and Health Reverse Signal Operation regulation. I have paraphrased your question as follows: Are fluorescent safety t-shirts an acceptable alternative to the required vest or jacket for designated observers/ground guides during daytime work operations?

The Virginia Occupational Safety and Health (VOSH) Reverse Signal Operation, 16VAC25-97-40 regulation requires that designated observer/ground guides shall “be provided with and wear during daytime operations a safety vest or jacket in orange, yellow, strong yellow green or fluorescent versions of these colors” and “be provided with and wear during nighttime operations a safety vest or jacket with retroreflective material in orange, yellow, white, silver, strong yellow green or a fluorescent version of these colors and shall be visible at a minimum distance of 1,000 feet”. The purpose of the regulation is to provide comprehensive protection to employees and employers exposed to reverse operation traffic of vehicles, machinery and equipment in construction and general industry work areas. This regulation is modeled on the Manual on Uniform Traffic Control Devices (MUTCD). The MUTCD sets minimum standards and provides guidance to protect workers from vehicular traffic. Section 6E-3 of the MUTCD is similar to the Virginia regulation in that it requires “for daytime work, the flagger's vest, shirt, or jacket shall be orange, yellow, strong yellow green or fluorescent versions of these colors”.

The MUTCD allows for shirts, or alternatively vests or jackets. Therefore, it is a reasonable extension to allow the same of the VOSH Reverse Signal regulation. The intent of the standard would be met if employees serving as designated observers/ground guides were to wear a solid color t-shirt that is one of the colors listed in the VOSH Reverse Signal Operation regulation. For daytime operations, the t-shirt is not required to be retroreflective.

If you need additional information or have further questions, please contact me.

Sincerely,

Jennifer L. Rose, CSP
VOSH Safety Program Director



COMMONWEALTH of VIRGINIA
DEPARTMENT OF LABOR AND INDUSTRY

C. Ray Davenport
COMMISSIONER

Main Street Centre
600 East Main Street, Suite 207
Richmond, Virginia 23219
PHONE (804) 371-2327
FAX (804) 371-6524

October 5, 2016

Mr. C.L. Stiff, CSP
Director, Safety, Health & Environmental
Altria Client Services LLC
601 E. Jackson Street
Richmond, VA 23219

Dear Mr. Stiff:

Thank you for your letter of October 3, 2016 to the Virginia Department of Labor and Industry (DOLI). You requested an interpretation of OSHA's Hazard Communication Standard (HCS) regarding the exemption of tobacco and tobacco products contained in paragraph 1910.1200(b)(6)(iii).

The Virginia Occupational Safety and Health (VOSH) Program adopted the OSHA identical HCS. The VOSH Program follows the same guidance and directives as OSHA regarding the enforcement and application of this standard. There are a number of items in paragraph 1910.1200(b)(6) which have a complete exemption from all requirements of the HCS. Specifically, 1910.1200(b)(6)(iii) exempts tobacco or tobacco products. As of this date, the VOSH Program considers this exemption to be current and applicable.

Thank you for your interest in occupational safety and health. I hope you find this information helpful. VOSH's requirements are set by statute, standards, and regulations. Our letters of interpretation do not create new or additional requirements but rather explain these requirements and how they apply to particular circumstances. This letter constitutes VOSH's interpretation of the requirements discussed. From time to time, letters are affected when the Agency updates a standard, a legal decision impacts a standard, or changes in technology affect the interpretation. To ensure that you are using the correct information and guidance, please consult the Virginia Department of Labor and Industry's website at <http://www.doli.virginia.gov>. If you have any further questions, please feel free to contact me (804) 786-0574.

Sincerely,

Ronald L. Graham, VOSH Health Director
Virginia Department of Labor and Industry

cc: William P. Burge, Assistant Commissioner
Diane Duell, Director of Legal Services
File