



## (Another) New Work Zone Safety Rule for Federal Aid Projects

*By Lisa Harris, Kansas Local Technical Assistance Program*



Last October, the national *Work Zone Safety and Mobility Rule* took effect requiring work zone safety policies to specifically address safety and mobility of the traveling public. Special requirements apply to “significant” (high impact) road construction or repair projects, but FHWA recommends they be considered for all work zone projects. Now another new rule is adding some more requirements and guidance for work zone policies—specifically targeted toward worker safety. The rule, officially known as the Temporary Traffic Control Devices Final

Rule—Subpart K to 23 CFR Part 630, or the *Positive Protection Rule* for short, will take effect December 4, 2008—coming right up! The Rule is applicable to all federal-aid projects.

This article will outline the main contents of the Positive Protection Rule—as a heads-up to the local governments in Kansas that need to comply with it (cities that do their own letting on federal-aid projects) and as information for the other local agencies that may want to improve their work zone procedures.

“Basically the Positive Protection Rule is about planning ahead to protect workers” said David LaRoche, safety engineer for FHWA’s Kansas Division. It requires or recommends measures that are just good common sense. Probably a lot of local agencies are doing most of them already,” he said.

The Rule requires agencies to anticipate the potential worker safety impacts in advance, and design the layout of the work zone traffic control to minimize risk. It was crafted around these goals:

- Avoid or minimize worker exposure to motorized traffic through strategies such as full road closures; detours; and rolling road blocks during work zone setup and removal;
- Where exposure cannot be adequately managed, reduce risk to workers from being struck by motorized traffic through the use of appropriate positive protective devices (such as concrete barriers);

- Where exposure and risk reduction is not adequate, possible, or practical, manage risk with appropriate intrusion countermeasures including, but not limited to, the use of uniformed law enforcement officers;
- Assure that the quality of temporary traffic control devices is maintained for the project duration; and
- Provide for the safe entry/exit of work vehicles onto/from the travel lanes.

The Rule also contains some language about payment for positive protection devices.

LaRoche said that KDOT has started looking at how to incorporate the new Rule into their work zone safety policy and operations. Below is an outline of the Rule, adapted from a Q&A document from FHWA.

**Who does this Rule apply to?** All federal-aid highway projects, including highway construction, maintenance, and utility projects that are funded in whole or in part with federal-aid funds. However, agencies are encouraged to apply the good practices that the Rule fosters to all highway projects.

#### **What are the key components of the new Rule?**

- **Positive protection devices** use **shall** be based on an engineering study:

—Strategies and devices to be used may be determined by a project-specific engineering study, or determined from agency guidelines that define strategies and approaches to be used, based on project and highway characteristics and factors.

—Use of positive protection **shall** be considered in work zone situations that place workers at increased risk from motorized traffic and where positive protection devices offer the highest potential for increased safety for workers and road users.

- **Exposure control** measures **should** be considered to avoid or minimize exposure for workers and road users.
- **Other traffic control measures should** be considered to reduce work zone crashes, and risks and consequences of intrusions into the work space.
- **Law enforcement.** [The agency] **shall** develop a policy addressing the use of uniformed law enforcement on Federal-aid highway projects.
- **Safe entry/exit** for work vehicles **should** be addressed by the agency processes, procedures, and/or guidance.
- **Payment** for traffic control features and operations:

—Payment **shall** not be incidental to the contract, or included in payment for other items of work not related to traffic control and safety.

—Separate pay items **shall** be provided for major categories of traffic control devices, safety features, and work zone safety activities.

- Quality guidelines **shall** be implemented to help maintain the quality and adequacy of the temporary traffic control devices for the duration of the project.

**Is the FHWA planning on providing additional guidance on the use of positive protection, such as defining the depth of a drop-off that will require positive protection?**

Yes and no. While additional guidance relating to the use of positive protection is being developed under the umbrella of the Work Zone Safety Grants, this guidance is unlikely to include any values that would specifically require the use of positive protection.

**Does this rule require that law enforcement officers be used on projects?** No, but it does require the agency to develop a policy addressing the use of uniformed law enforcement on federal-aid highway projects. The agency should consider situations where the use of uniformed law enforcement officers could improve the safety of the road user and workers. Several examples of conditions are provided in Section 630.1108(d) of the Rule.

**Will our agency have to adopt ATSSA's Quality Guideline?** No. The *ATSSA Quality Guideline* was included in the rule language as an example of the type of guidance that should be used to help control and maintain the quality of temporary traffic control devices. If the agency currently has a similar mechanism/process in place to address the quality of devices, that should be adequate.

**How will the rule be enforced?** "To assess effectiveness of the procedures, the state should perform a process review least every two years with FHWA participation," said LaRoche. "The results of the review are intended to improve work zone processes and procedures, data and information resources, and training."

**What kind of documentation of procedures is needed?** "The rule is flexible concerning the form of the policy. It may take the form of processes, procedures, and /or guidance, and may vary based on the characteristics and expected work zone impacts of individual projects or classes of projects," said LaRoche.

**Does FHWA recommend any particular resources or guidance for designing work zone traffic control, other than the MUTCD?** We recommend the use of multi-disciplinary teams in designing work zones," said LaRoche. "All devices within the clear zone should be NCHRP 350 compliant."

LaRoche said that FHWA has a number of guides and Web pages to help agencies implement the 2006 WZ Safety and Mobility Rule and the 2008 Positive Protection Rule, and these resources contain information on work zone protection. He also noted that everyone involved with work zones needs to be trained commensurate with their individual responsibilities.

**How will this new rule affect our agency's liability?** LaRoche said that if your agency is required to follow the rule, and you don't, you will be at risk. Most local agencies in Kansas (those that do not let federal-aid projects) are not required to comply, but are encouraged to follow principles outlined in the rule. For those agencies, not following the Rule should not increase risk, unless the procedures in the Rule become standard of practice over time.

More information about the "Positive Protection" Rule, including a link to a recorded Webinar explaining the Final Rule can all be accessed on the FHWA Operations Web site: <http://ops.fhwa.dot.gov/wz/resources/policy.htm>.

Or you can call David LaRoche, at FHWA's Kansas Division at (785) 271-2448, ext. 210.

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