



U.S. Department
of Transportation

Memorandum

Federal Highway Administration

Subject: ACTION: Implementation of Cargo Preference Act
Requirements in the Federal-aid Highway Program

Date: December 11, 2015

From: Mr. Thomas Everett
Director, Office of Program Administration

Reply to
Attn. of: HIPA-30

To: Division Administrators
Directors of Field Services

This memorandum responds to several inquiries regarding the applicability of the Cargo Preference Act (CPA) and implementing regulations (46 CFR Part 381) to the Federal-aid highway program. For the reasons outlined in the [attached legal opinion](#), we find that the 2008 amendment of the CPA had the effect of making the cargo preference requirements applicable to the Federal-aid highway program. This memo supersedes FHWA's [February 19, 1988 memo titled: "Cargo Preference Act – Attorney General Opinion."](#)

Therefore, the CPA requirements are effective for the Federal-aid highway program as follows:

- All recipients must insert a contract clause referencing and requiring compliance with the CPA requirements and its implementing regulations in 46 CFR 381 for all Federal-aid projects awarded after February 15, 2016.
- The clause should incorporate by reference the recommended clauses in 46 CFR 381.7(a)-(b) until FHWA-specific ones are developed and implemented through a revision of Form FHWA-1273.

For additional information, see the FHWA's web page providing guidance for [Cargo Preference Act requirements](#).

If you have any questions regarding this matter, you may contact Gerald Yakowenko, Contract Administration Team Leader at 202-366-1562.