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**CARGO PREFERENCE ACT**

January 2016

**Background:**

The Cargo Preference Act (CPA) applies to equipment materials and commodities obtained using U.S. Government funds. When transported by ocean vessels, at least 50% of such items must be transported on privately owned United States-flag commercial vessels, if available.

Historically the CPA has not applied to federal aid highway projects. However in December 2015 FHWA issued the attached directive that, due to amendments in 2008, the CPA must be implemented on federal aid highway projects beginning in February 2016. This has been accomplished by addenda to affected proposals in the January 20, 2016 letting. For later lettings these requirements are incorporated by Proposal Note FHWA-1273.06.

In general, the requirements are not applicable to goods or materials that come into inventories independent of an FHWA funded-contract. However, if materials or equipment are acquired solely for a Federal-aid project, then the Cargo Preference Act requirements apply. The latter is true whether or not the equipment is permanently incorporated into a Federal-aid project.

**References**

The FHWA has issued [guidance online.](https://www.fhwa.dot.gov/construction/cqit/cargo.cfm)

Your attention is directed to #6 in [FHWA’s online Q & A](https://www.fhwa.dot.gov/construction/cqit/cargo/qa.cfm), shown here:

***6. Does the policy apply to all highway materials and construction equipment?***

*The requirements apply to materials or equipment that are acquired for a specific Federal-aid highway project. In general, the requirements are not applicable to goods or materials that come into inventories independent of an FHWA funded-contract. For example, the requirements would not apply to shipments of Portland cement, asphalt cement, or aggregates, as industry suppliers and contractors use these materials to replenish existing inventories. In general, most of the materials used for highway construction originate from existing inventories and are not acquired solely for a specific Federal-aid project. However, if materials or equipment are acquired solely for a Federal-aid project, then the Cargo Preference Act requirements apply.*