



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: **INFORMATION:** MAP-21 Section 1525
Interim Policy Guidance

Date: October 9, 2012

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From: David Nicol
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In Reply Refer To:
HIPA-30

To: Division Administrators
Resource Center Directors and Operations Managers
Directors of Field Services

Section 1525 of the “[Moving Ahead for Progress in the 21st Century Act](#)” (MAP-21) signed into law July 6, 2012, requires the Secretary, within 180 days of the enactment date of October 1, 2012, to “... modify section 635.411 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that States shall have the autonomy to determine culvert and storm sewer material types to be included in the construction of a project on a Federal-aid highway.” The MAP-21 provision overrides Section 5514 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) insofar as Section 5514 required the Secretary to ensure that States provide for competition with respect to the specification of alternative types of culvert pipes.

In light of the enactment of Section 1525, the following policy Memoranda implementing Section 5514 of SAFETEA-LU are rescinded:

- Dwight Horne’s October 6, 2005 Memorandum “[INFORMATION: SAFETEA-LU Section 5514](#)”
- Dwight Horne’s November 30, 2006 Memorandum “[ACTION: Pipe Selection Final Rule](#)”
- Dwight Horne’s July 9, 2007 Memorandum “[Information: Culvert Selection Procedures](#)”

Also, the following questions and answers will be added to the FHWA’s guidance regarding 23 CFR 635.411, located at the following link: “[Questions and Answers Regarding Title 23 CFR 635.411](#)”

Section 1525 of MAP-21 – State Autonomy for Culvert Pipe Selection

28. What does Section 1525 of MAP-21 provide?

Section 1525 of the “Moving Ahead for Progress in the 21st Century Act” (MAP-21) provides that, “Not later than 180 days after the date of enactment of this Act, the Secretary shall modify section 635.411 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that States shall have the autonomy to determine culvert and storm sewer material types to be included in the construction of a project on a Federal-aid highway.”

29. What is the significance of the word “autonomy” in Section 1525 of MAP-21?

The use of the word “autonomy” in this section gives the State departments of transportation (State DOTs) and other direct recipients the sole authority and discretion to make a decision regarding culvert and storm sewer material types without any input or approval from the FHWA.

30. How does Section 1525 apply to projects administered by local public agencies (LPAs)?

Local public agencies (LPAs), with the approval of their State DOT, will have the authority to determine culvert and storm sewer material types to be included in their Federal-aid highway construction projects.

31. Must the State’s selected type of culvert and storm sewer material comply with other applicable Federal requirements?

Yes. The culvert and storm sewer material type that is selected by the State DOT, or other direct recipient, must comply with all applicable Federal requirements, including Buy America, culvert design standards in 23 CFR Part 625, and the restriction against the use of patented and proprietary products in 23 CFR 635.411.

32. Will the FHWA update relevant agency policies and regulations to implement Section 1525?

Yes. The FHWA will modify 23 CFR 635.411, as required in Section 1525, as well as the FHWA Contract Administration Core Curriculum Manual and FHWA Construction Program Guide Web Page. Additionally, Division Offices should revise any standard operating procedures relating to the selection of culvert and storm sewer material type to conform to the requirements of Section 1525.

If you have any questions about this policy or desire further information, please contact one of the following:

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