



U.S. Department
of Transportation

**Federal Highway
Administration**

Notice

Subject:

**DISTRIBUTION OF FEDERAL-AID HIGHWAY PROGRAM OBLIGATION
LIMITATION FOR THE PERIOD BEGINNING ON OCTOBER 1, 2016,
AND ENDING ON DECEMBER 9, 2016**

Classification Code

Date

Office of Primary Interest

N4520.243

October 4, 2016

HCFB-10

1. **What is the purpose of this Notice?** This Notice is to advise the States of the distribution of the limitation on Federal-aid highway program obligations pursuant to the Continuing Appropriations Act, 2017, Public Law (Pub. L.) 114-223.
2. **What is the overall limitation on obligations, and what provision determines its distribution?**
 - a. Section 101(a) of the Continuing Appropriations Act, 2017, sets an overall limitation on obligations at an annual rate for operations of \$42,361,000,000 for Fiscal Year (FY) 2017. This annual rate for operations is equal to the obligation limitation made available in FY 2016 under the Department of Transportation Appropriations Act, 2016, title I of division L, Pub. L. 114-113.
 - b. Section 101(b) of the Continuing Appropriations Act, 2017, applies a reduction of 0.496 percent to the annual rate for operations, resulting in a reduction of \$210,110,560 (\$42,361,000,000 times 0.496 percent). The net annual rate for operations after the reduction is \$42,150,889,440.
 - c. The Continuing Appropriations Act, 2017, covers the period beginning on October 1, 2016, and ending on December 9, 2016 (70 days). The pro-rata for that period is 19.18 percent (70 days divided by 365 days). The pro-rata is applied to the distribution of obligation limitation calculated based on the annual rate for operations. Therefore, the total obligation limitation provided by this Notice is \$8,084,540,595 (\$42,150,889,440 times 19.18 percent).
 - d. Section 101(a) of the Continuing Appropriations Act, 2017, continues section 120 of the Department of Transportation Appropriations Act, 2016, providing the distribution methodology for the overall limitation on Federal-aid highway program obligations.
 - e. Upon the enactment of a full-year appropriations act or a further continuing appropriations act, the distribution of obligation limitation will be revised and

additional obligation limitation will be provided as determined under the provisions of such law.

- f. Unless otherwise specified, all obligation limitation is available for one fiscal year and will expire at the end of FY 2017.

3. **What funds are exempt from the limitation on obligations?** The obligation limitation does not apply to obligations for projects covered under:

- (1) section 125 of title 23, United States Code (U.S.C.);
- (2) section 147 of the Surface Transportation Assistance Act of 1978;
- (3) section 9 of the Federal-Aid Highway Act of 1981;
- (4) sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982;
- (5) sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987;
- (6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991;
- (7) section 157 of title 23, U.S.C., as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century;
- (8) section 105 of title 23, U.S.C., as in effect for fiscal years 1998 through 2004, but only in an amount equal to \$639,000,000 for each of those fiscal years;
- (9) the Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used;
- (10) section 105 of title 23, U.S.C., but only in an amount equal to \$639,000,000 for each of fiscal years 2005 through 2012;
- (11) section 1603 of the SAFETEA-LU, to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation; and

- (12) section 119 of title 23, U.S.C., but only in an amount equal to \$639,000,000 prior to sequestration for each of fiscal years 2013 through 2017.

4. How are the obligation limitation amounts associated with allocated programs determined?

- a. Obligation limitation is provided for administrative expenses and programs authorized under section 104(a) of title 23, U.S.C., and amounts authorized for the Bureau of Transportation Statistics. Pursuant to section 101 of the Continuing Appropriations Act, 2017, the annual rate for operations for limitation on Federal Highway Administration administrative expenses is \$425,752,000, which is reduced by 0.496 percent to \$423,640,270 (\$81,254,204 at the pro-rata of 19.18 percent). The annual rate for operations for limitation to be transferred to the Appalachian Regional Commission for administrative activities is \$3,248,000, which is reduced by 0.496 percent to \$3,231,890 (\$619,876 at the pro-rata of 19.18 percent). For the other programs for which funding is authorized under section 104(a) of title 23, U.S.C., and the Bureau of Transportation Statistics, the annualized amount of obligation limitation is equal to the contract authority for each such program.
- b. Obligation limitation is provided for the unobligated balances of contract authority for allocated programs (or for the apportioned Tribal Transportation Program and Federal Lands Access Program) that are carried over from previous fiscal years and for which obligation limitation had been provided in a previous fiscal year. The annualized amount of obligation limitation is equal to such unobligated balances of contract authority.
- c. The ratio between the remaining annualized amount of obligation limitation and the remaining FY 2017 contract authority subject to obligation limitation is determined. The ratio calculated for FY 2017 under the Continuing Appropriations Act, 2017, is 90.0 percent.
- d. Obligation limitation is distributed for each of the allocated programs (other than those allocated programs for which obligation limitation has already been provided) and for the Tribal Transportation Program and Federal Lands Access Program. The annualized amount of obligation limitation for each such program is determined by multiplying the amount of contract authority authorized for FY 2017 by the above ratio. The annualized amount of contract authority authorized that is not provided associated obligation limitation is "lopped off," resulting in annualized amounts of contract authority equal to the annualized amounts of obligation limitation available for such programs (except for the Tribal Transportation Program, which is not subject to the "lop off" of contract authority).

- e. The obligation limitation for each of the allocated programs for the period beginning on October 1, 2016, and ending on December 9, 2016, is then determined by multiplying the annualized amount of obligation limitation for each allocated program by the pro-rata of 19.18 percent.

5. How is the distribution of formula obligation limitation to the States determined?

- a. After obligation limitation is provided for the allocated programs (and for the Tribal Transportation Program and Federal Lands Access Program) as described above, the remaining annualized amount of obligation limitation is distributed among the States as formula obligation limitation. The formula obligation limitation is distributed among the States in the proportions that the FY 2017 apportionments subject to the obligation limitation for each State bear to the total FY 2017 apportionments subject to the obligation limitation for all States.
- b. The formula obligation limitation available for the period beginning on October 1, 2016, and ending on December 9, 2016, is then determined by multiplying the annualized amount of formula obligation limitation for each State by the pro-rata of 19.18 percent.
- c. The attached Table 1 shows the amount of formula obligation limitation distributed to each State for the period beginning on October 1, 2016, and ending on December 9, 2016 (70 days) net of any obligation limitation associated with transfer penalty funding or set aside under the high risk rural roads special rule (see paragraphs 6 and 7 of this Notice below).

6. Is there any obligation limitation associated with transfer penalty funds?

- a. Yes, obligation limitation is associated with transfer penalty funds for those States that failed to meet the provisions of section 154 of title 23, U.S.C. (Open Container Requirements) or section 164 of title 23, U.S.C. (Minimum Penalties for Repeat Offenders for Driving While Intoxicated or Driving Under the Influence) for FY 2017 as determined by the National Highway Traffic Safety Administration (NHTSA).
- b. Along with the transfer penalty funds under section 154 and section 164 of title 23, U.S.C., the associated obligation limitation will be reserved and then released for use on eligible Highway Safety Improvement Program activities under section 148 of title 23, U.S.C., or transferred to the State's safety program under section 402 of title 23, U.S.C. If the administrative review process or a section 164 "general practice" certification review by NHTSA determines that a State is in compliance with section 154 or section 164 as of October 1, 2016, the reserved obligation limitation will be restored to the State's formula obligation limitation.

- c. The annualized amount of obligation limitation associated with the transfer penalty funds is determined by multiplying the amount of the transfer penalty funds by the ratio of a State's annualized formula obligation limitation to that State's apportionments subject to the obligation limitation.
- d. The obligation limitation associated with transfer penalty funds for the period beginning on October 1, 2016, and ending on December 9, 2016, is then determined by multiplying the annualized amount of obligation limitation associated with transfer penalty funds for each State by the pro-rata of 19.18 percent.
- e. The amounts of transfer penalty funds for FY 2017 and associated obligation limitation for the period beginning on October 1, 2016, and ending on December 9, 2016 (70 days) are shown in Table 2.

7. Is there any obligation limitation set aside under the special rule for high risk rural roads?

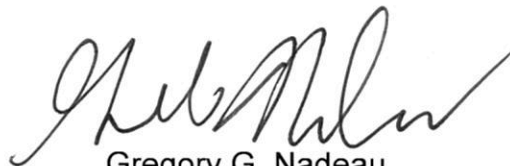
- a. Section 148(g)(1) of title 23, U.S.C., contains a special rule for high risk rural road safety. The special rule requires that, if the fatality rate on rural roads in a State increases over the most recent 2-year period for which data are available, the State must obligate during the next fiscal year for projects on high risk rural roads an amount at least equal to 200 percent of its FY 2009 high risk rural roads set-aside.
- b. The requirement to obligate such amounts during the next fiscal year is implemented by a set-aside of both Highway Safety Improvement Program funds and, on an annualized basis, an equal amount of associated obligation limitation.
- c. The obligation limitation associated with the high risk rural road safety special rule for the period beginning on October 1, 2016, and ending on December 9, 2016, is then determined by multiplying the annualized amount of obligation limitation associated with the high risk rural road safety special rule for each State by the pro-rata of 19.18 percent.
- d. The amounts of high risk rural roads special rule funds for FY 2017 and associated obligation limitation for the period beginning on October 1, 2016, and ending on December 9, 2016 (70 days) are shown in Table 3.

8. What other provisions apply that are related to the distribution of obligation limitation?

- a. Contract authority for transportation research programs under chapter 5 of title 23, U.S.C., or title VI of the Fixing America's Surface Transportation

(FAST) Act is subject to obligation limitation that remains available for a period of 4 fiscal years. Obligation limitation made available for Transportation Research in future fiscal years will be in addition to amounts made available for FY 2017.

- b. The amounts of contract authority "lopped off" from the allocated programs and the Federal Lands Access Program due to the imposition of the obligation limitation will be redistributed to the States. The redistribution will be provided via a separate notice to be issued no later than 30 days after the distribution of the obligation limitation.
 - c. After August 1, 2017, the Secretary will revise the distribution of obligation authority made available if a State does not plan to obligate the amount distributed during FY 2017 and redistribute such amount to those States able to obligate amounts in addition to those previously distributed during FY 2017. Procedures for this process (known as August Redistribution) will be provided via a separate notice to be issued in July.
9. **What action is required?** Division Administrators should ensure that copies of this Notice are provided to the State departments of transportation.



Gregory G. Nadeau
Administrator

Attachments

U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

OBLIGATION LIMITATION DISTRIBUTION FOR THE PERIOD BEGINNING
ON OCTOBER 1, 2016, AND ENDING ON DECEMBER 9, 2016, UNDER
THE CONTINUING APPROPRIATIONS ACT, 2017

STATE	Formula Obligation Limitation
ALABAMA	132,476,213
ALASKA	83,650,765
ARIZONA	127,894,549
ARKANSAS	88,391,503
CALIFORNIA	629,579,917
COLORADO	91,529,406
CONNECTICUT	85,712,793
DELAWARE	28,942,953
DISTRICT OF COLUMBIA	27,888,698
FLORIDA	330,827,327
GEORGIA	224,412,731
HAWAII	28,297,543
IDAHO	49,971,242
ILLINOIS	247,407,031
INDIANA	162,191,279
IOWA	85,827,660
KANSAS	65,999,175
KENTUCKY	116,029,539
LOUISIANA	117,038,930
MAINE	31,565,712
MARYLAND	105,084,585
MASSACHUSETTS	105,803,651
MICHIGAN	182,923,800
MINNESOTA	111,463,082
MISSISSIPPI	82,568,808
MISSOURI	161,644,451
MONTANA	69,820,802
NEBRASKA	50,490,700
NEVADA	63,495,559
NEW HAMPSHIRE	28,877,625
NEW JERSEY	174,008,220
NEW MEXICO	62,354,721
NEW YORK	293,645,437
NORTH CAROLINA	182,229,146
NORTH DAKOTA	42,424,448
OHIO	224,391,892
OKLAHOMA	110,749,130
OREGON	85,400,762
PENNSYLVANIA	286,764,209
RHODE ISLAND	37,382,534
SOUTH CAROLINA	116,936,397
SOUTH DAKOTA	48,192,010
TENNESSEE	141,172,558
TEXAS	647,555,754
UTAH	60,407,203
VERMONT	34,709,670
VIRGINIA	173,982,120
WASHINGTON	115,318,199
WEST VIRGINIA	76,332,895
WISCONSIN	131,439,172
WYOMING	42,790,758
SUBTOTAL	6,805,995,264
Allocated Programs	1,194,954,191
Sections 154 and 164 Penalties	76,403,214
High Risk Rural Roads Special Rule	7,187,926
TOTAL	8,084,540,595

U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

PENALTY FUNDS AND ASSOCIATED OBLIGATION LIMITATION FOR THE PERIOD
BEGINNING ON OCTOBER 1, 2016, AND ENDING ON DECEMBER 9, 2016, FOR PENALTY
PROVISIONS UNDER SECTIONS 154 AND 164 OF TITLE 23, UNITED STATES CODE

STATE	TOTAL SECTIONS 154 & 164 PENALTY FUNDS	OBLIGATION LIMITATION FOR PENALTIES
ALABAMA	0	0
ALASKA	21,977,716	3,793,842
ARIZONA	0	0
ARKANSAS	11,739,631	2,026,521
CALIFORNIA	73,496,012	12,687,043
COLORADO	11,348,977	1,959,085
CONNECTICUT	10,561,658	1,823,177
DELAWARE	3,628,087	626,288
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	0	0
HAWAII	7,317,832	1,263,220
IDAHO	0	0
ILLINOIS	0	0
INDIANA	20,983,054	3,622,141
IOWA	0	0
KANSAS	0	0
KENTUCKY	0	0
LOUISIANA	31,985,402	5,521,391
MAINE	4,018,599	693,699
MARYLAND	0	0
MASSACHUSETTS	0	0
MICHIGAN	0	0
MINNESOTA	14,337,505	2,474,972
MISSISSIPPI	10,970,977	1,893,834
MISSOURI	21,393,990	3,693,078
MONTANA	9,172,689	1,583,410
NEBRASKA	0	0
NEVADA	0	0
NEW HAMPSHIRE	0	0
NEW JERSEY	0	0
NEW MEXICO	8,254,806	1,424,963
NEW YORK	0	0
NORTH CAROLINA	0	0
NORTH DAKOTA	5,501,286	949,644
OHIO	57,456,264	9,918,227
OKLAHOMA	0	0
OREGON	11,111,969	1,918,173
PENNSYLVANIA	0	0
RHODE ISLAND	4,810,079	830,326
SOUTH CAROLINA	0	0
SOUTH DAKOTA	6,244,758	1,077,984
TENNESSEE	37,433,038	6,461,773
TEXAS	0	0
UTAH	0	0
VERMONT	4,404,348	760,288
VIRGINIA	22,256,112	3,841,899
WASHINGTON	14,765,714	2,548,890
WEST VIRGINIA	0	0
WISCONSIN	0	0
WYOMING	11,380,810	1,964,581
SUBTOTAL	436,551,313	75,358,449
Puerto Rico	6,052,400	1,044,765
TOTAL	442,603,713	76,403,214

NOTE: Puerto Rico Highway Program is an allocated program and is not treated as an apportionment to the States.

U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

HIGH RISK RURAL ROADS (HRRR) SPECIAL RULE FUNDS AND ASSOCIATED
OBLIGATION LIMITATION FOR THE PERIOD BEGINNING ON OCTOBER 1, 2016, AND ENDING
ON DECEMBER 9, 2016, PURSUANT TO SECTION 148(g)(1) OF TITLE 23, UNITED STATES CODE

STATE	TOTAL HRRR SPECIAL RULE FUNDS	OBLIGATION LIMITATION FOR HRRR SPECIAL RULE
ALABAMA	0	0
ALASKA	900,000	172,620
ARIZONA	0	0
ARKANSAS	0	0
CALIFORNIA	0	0
COLORADO	0	0
CONNECTICUT	1,502,890	288,254
DELAWARE	0	0
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	6,299,452	1,208,235
HAWAII	0	0
IDAHO	0	0
ILLINOIS	6,048,546	1,160,111
INDIANA	3,513,290	673,849
IOWA	0	0
KANSAS	0	0
KENTUCKY	0	0
LOUISIANA	0	0
MAINE	0	0
MARYLAND	0	0
MASSACHUSETTS	2,273,676	436,091
MICHIGAN	5,852,012	1,122,416
MINNESOTA	0	0
MISSISSIPPI	0	0
MISSOURI	0	0
MONTANA	1,389,760	266,556
NEBRASKA	0	0
NEVADA	0	0
NEW HAMPSHIRE	0	0
NEW JERSEY	3,333,210	639,310
NEW MEXICO	1,887,424	362,008
NEW YORK	0	0
NORTH CAROLINA	0	0
NORTH DAKOTA	0	0
OHIO	0	0
OKLAHOMA	0	0
OREGON	0	0
PENNSYLVANIA	0	0
RHODE ISLAND	0	0
SOUTH CAROLINA	0	0
SOUTH DAKOTA	0	0
TENNESSEE	0	0
TEXAS	0	0
UTAH	1,331,318	255,347
VERMONT	0	0
VIRGINIA	0	0
WASHINGTON	3,144,572	603,129
WEST VIRGINIA	0	0
WISCONSIN	0	0
WYOMING	0	0
TOTAL	37,476,150	7,187,926