



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, 2017,
AND ENDING ON JANUARY 19, 2018**

Classification Code	Date	Office of Primary Interest
N4520.250	January 5, 2018	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, 2018, Public Law (Pub. L.) 115-56, as amended by the Further Additional Continuing Appropriations Act, 2018, Pub. L. 115-96.
2. **Does this Notice cancel FHWA Notice 4520.249?** Yes, this Notice cancels FHWA Notice 4520.249, Revised Distribution of Federal-aid Highway Program Obligation Limitation for the Period Beginning on October 1, 2017, and Ending on December 8, 2017, dated October 6, 2017. This Notice reflects the distribution of obligation limitation through January 19, 2018, based on the Continuing Appropriations Act, 2018, as amended by the Further Additional Continuing Appropriations Act, 2018. A revised Notice was not issued for the Continuing Resolution (CR) covering the period from December 9, 2017, to December 22, 2017, due to the short duration of the CR making a distribution unfeasible from a programmatic standpoint. This Notice includes the period from December 9, 2017, through the end of the current CR.
3. **What is the overall limitation on obligations, and what provision determines its distribution?**
 - a. Section 101(a) of the Continuing Appropriations Act, 2018, as amended by the Further Additional Continuing Appropriations Act, 2018, sets an overall limitation on obligations at an annual rate for operations of \$43,266,100,000 for Fiscal Year (FY) 2018. This annual rate for operations is equal to the obligation limitation made available in FY 2017 under the Department of Transportation Appropriations Act, 2017, title I of division K, Pub. L. 115-31.
 - b. Section 101(b) of the Continuing Appropriations Act, 2018, as amended by the Further Additional Continuing Appropriations Act, 2018, applies a reduction of 0.6791 percent to the annual rate for operations, resulting in a reduction of \$293,820,085 (\$43,266,100,000 times 0.6791 percent). The net annual rate for operations after the reduction is \$42,972,279,915.

- c. The overall pro-rata for the period beginning on October 1, 2017, and ending on January 19, 2018, is 30.41 percent (111 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 \$13,067,870,322 (\$42,972,279,915 times 30.41 percent).
 - d. Section 101(a) of the Continuing Appropriations Act, 2018, as amended by the Further Additional Continuing Appropriations Act, 2018, continues section 120 of the Department of Transportation Appropriations Act, 2017, 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 2018.
4. **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, 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 2018.

5. 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, 2018, as amended by the Further Additional Continuing Appropriations Act, 2018, the annual rate for operations for limitation on Federal Highway Administration administrative expenses is \$432,547,000, which is reduced by 0.6791 percent to \$429,609,573 (\$130,644,271 at the pro-rata of 30.41 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 0.6791 percent to \$3,225,943 (\$981,009 at the pro-rata of 30.41 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 2018 contract authority subject to obligation

limitation is determined. The ratio calculated for FY 2018 under the Continuing Appropriations Act, 2018, as amended by the Further Additional Continuing Appropriations Act, 2018, is 89.0 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 2018 by the above ratio. The annualized amount of contract authority authorized that is not provided associated obligation limitation is “lopped off” (deducted), 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, 2017, and ending on January 19, 2018, is then determined by multiplying the annualized amount of obligation limitation for each allocated program by the pro-rata of 30.41 percent.

6. 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 2018 apportionments subject to the obligation limitation for each State bear to the total FY 2018 apportionments subject to the obligation limitation for all States.
- b. The formula obligation limitation available for the period beginning on October 1, 2017, and ending on January 19, 2018, is then determined by multiplying the annualized amount of formula obligation limitation for each State by the pro-rata of 30.41 percent.
- c. The attached Table 1 shows the amount of formula obligation limitation distributed to each State for the period beginning on October 1, 2017, and ending on January 19, 2018 (111 days) net of any obligation limitation associated with transfer penalty funding or set aside under the high risk rural roads special rule (see paragraphs 7 and 9 of this Notice below).

7. **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 2018 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, 2017, 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, 2017, and ending on January 19, 2018, is then determined by multiplying the annualized amount of obligation limitation associated with transfer penalty funds for each State by the pro-rata of 30.41 percent.
 - e. The amounts of transfer penalty funds for FY 2018 and associated obligation limitation for the period beginning on October 1, 2017, and ending on January 19, 2018 (111 days) are shown in Table 2.
8. **How is the distribution of the obligation limitation affected by a penalty that requires that funds be withheld from apportionment to a State, such as required by 23 U.S.C. 159?** The formula obligation limitation associated with any funds withheld from apportionment due to such a penalty is distributed to the States pursuant to the Continuing Appropriations Act, 2018, as amended by the Further Additional Continuing Appropriations Act, 2018. See paragraph 6 for how obligation limitation is distributed to the States.
9. **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, 2017, and ending on January 19, 2018, 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 30.41 percent.
- d. The amounts of high risk rural roads special rule funds for FY 2018 and associated obligation limitation for the period beginning on October 1, 2017, and ending on January 19, 2018 (111 days) are shown in Table 3.

10. **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 2018.
- 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, 2018, the Secretary will revise the distribution of obligation authority made available if a State does not plan to obligate the amount distributed during FY 2018 and redistribute such amount to those States able to obligate amounts in addition to those previously distributed during FY 2018. Procedures for this process (known as August Redistribution) will be provided via a separate notice to be issued in July.

11. **What action is required?** Division Administrators should ensure that copies of this Notice are provided to the State departments of transportation.



Brandye L. Hendrickson
Acting Administrator

Attachments

U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

OBLIGATION LIMITATION DISTRIBUTION FOR THE PERIOD BEGINNING
ON OCTOBER 1, 2017, AND ENDING ON JANUARY 19, 2018, UNDER
THE CONTINUING APPROPRIATIONS ACT, 2018, AS AMENDED

STATE	Formula Obligation Limitation ¹
ALABAMA	212,788,991
ALASKA	134,378,002
ARIZONA	205,425,009
ARKANSAS	141,984,889
CALIFORNIA	1,011,253,037
COLORADO	146,161,744
CONNECTICUT	138,140,575
DELAWARE	46,490,471
DISTRICT OF COLUMBIA	44,795,076
FLORIDA	531,389,327
GEORGIA	360,480,929
HAWAII	45,456,134
IDAHO	80,264,990
ILLINOIS	397,409,106
INDIANA	261,609,863
IOWA	137,859,659
KANSAS	106,010,255
KENTUCKY	185,495,450
LOUISIANA	188,012,102
MAINE	47,145,753
MARYLAND	168,786,084
MASSACHUSETTS	169,948,871
MICHIGAN	295,616,026
MINNESOTA	179,042,759
MISSISSIPPI	132,631,813
MISSOURI	259,652,051
MONTANA	112,159,273
NEBRASKA	81,099,642
NEVADA	101,533,736
NEW HAMPSHIRE	46,383,538
NEW JERSEY	280,515,871
NEW MEXICO	100,168,673
NEW YORK	471,646,967
NORTH CAROLINA	292,700,284
NORTH DAKOTA	69,668,529
OHIO	360,453,207
OKLAHOMA	173,892,528
OREGON	137,179,608
PENNSYLVANIA	458,850,009
RHODE ISLAND	60,047,443
SOUTH CAROLINA	187,827,897
SOUTH DAKOTA	77,410,895
TENNESSEE	231,955,489
TEXAS	1,021,670,401
UTAH	94,898,045
VERMONT	55,753,706
VIRGINIA	278,110,013
WASHINGTON	185,247,004
WEST VIRGINIA	122,608,350
WISCONSIN	211,121,355
WYOMING	68,738,430
SUBTOTAL	10,909,869,859
Allocated Programs	2,023,771,310
Sections 154 and 164 Penalties	121,853,712
High Risk Rural Roads Special Rule	12,375,441
TOTAL	13,067,870,322

¹ The distribution of formula obligation limitation has been calculated based on the FY 2018 apportionments subject to obligation limitation net of any penalty funds withheld from apportionment and lapsed immediately for a State under section 159 of title 23, U.S.C.

U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

PENALTY FUNDS AND ASSOCIATED OBLIGATION LIMITATION FOR THE PERIOD
BEGINNING ON OCTOBER 1, 2017, AND ENDING ON JANUARY 19, 2018, 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	22,449,672	6,080,683
ARIZONA	0	0
ARKANSAS	11,991,434	3,247,981
CALIFORNIA	75,079,552	20,335,930
COLORADO	11,592,970	3,140,054
CONNECTICUT	10,788,802	2,922,238
DELAWARE	3,706,057	1,003,817
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	0	0
HAWAII	7,475,048	2,024,679
IDAHO	0	0
ILLINOIS	0	0
INDIANA	21,433,575	5,805,464
IOWA	0	0
KANSAS	0	0
KENTUCKY	0	0
LOUISIANA	32,671,340	8,849,308
MAINE	4,104,915	1,111,851
MARYLAND	0	0
MASSACHUSETTS	0	0
MICHIGAN	0	0
MINNESOTA	14,645,358	3,966,819
MISSISSIPPI	11,206,289	3,035,318
MISSOURI	21,852,922	5,919,048
MONTANA	9,369,530	2,537,816
NEBRASKA	0	0
NEVADA	0	0
NEW HAMPSHIRE	0	0
NEW JERSEY	0	0
NEW MEXICO	8,431,917	2,283,856
NEW YORK	0	0
NORTH CAROLINA	0	0
NORTH DAKOTA	0	0
OHIO	58,691,082	15,896,975
OKLAHOMA	14,757,694	3,997,246
OREGON	11,350,472	3,074,371
PENNSYLVANIA	0	0
RHODE ISLAND	4,913,360	1,330,825
SOUTH CAROLINA	0	0
SOUTH DAKOTA	6,378,811	1,727,755
TENNESSEE	19,118,295	5,178,352
TEXAS	0	0
UTAH	7,881,881	2,134,874
VERMONT	4,498,962	1,218,582
VIRGINIA	22,734,082	6,157,718
WASHINGTON	15,082,868	4,085,322
WEST VIRGINIA	0	0
WISCONSIN	0	0
WYOMING	11,625,090	3,148,754
SUBTOTAL	443,831,978	120,215,636
Puerto Rico	6,052,400	1,638,076
TOTAL	449,884,378	121,853,712

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, 2017, AND ENDING
ON JANUARY 19, 2018, 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	273,690
ARIZONA	0	0
ARKANSAS	0	0
CALIFORNIA	0	0
COLORADO	2,826,084	859,412
CONNECTICUT	0	0
DELAWARE	0	0
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	6,299,452	1,915,663
HAWAII	0	0
IDAHO	0	0
ILLINOIS	6,048,546	1,839,363
INDIANA	0	0
IOWA	0	0
KANSAS	0	0
KENTUCKY	2,879,986	875,804
LOUISIANA	0	0
MAINE	0	0
MARYLAND	0	0
MASSACHUSETTS	2,273,676	691,425
MICHIGAN	0	0
MINNESOTA	0	0
MISSISSIPPI	0	0
MISSOURI	0	0
MONTANA	1,389,760	422,626
NEBRASKA	0	0
NEVADA	1,487,814	452,444
NEW HAMPSHIRE	0	0
NEW JERSEY	0	0
NEW MEXICO	1,887,424	573,966
NEW YORK	0	0
NORTH CAROLINA	0	0
NORTH DAKOTA	0	0
OHIO	0	0
OKLAHOMA	0	0
OREGON	0	0
PENNSYLVANIA	5,766,894	1,753,713
RHODE ISLAND	0	0
SOUTH CAROLINA	0	0
SOUTH DAKOTA	0	0
TENNESSEE	0	0
TEXAS	0	0
UTAH	1,331,318	404,854
VERMONT	0	0
VIRGINIA	4,459,774	1,356,217
WASHINGTON	3,144,572	956,264
WEST VIRGINIA	0	0
WISCONSIN	0	0
WYOMING	0	0
TOTAL	40,695,300	12,375,441