



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, 2018, AND ENDING ON FEBRUARY 15, 2019**

Classification Code

Date

Office of Primary Interest

N4520.258

February 6, 2019

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, 2019, Public Law (Pub. L.) 115-245, as amended by the Further Additional Continuing Appropriations Act, 2019, Pub. L. 116-5.
2. **Does this Notice cancel FHWA Notice 4520.257?** Yes, this Notice cancels FHWA Notice 4520.257, Distribution of Federal-aid Highway Program Obligation Limitation for Fiscal Year (FY) 2019, dated January 8, 2019. This Notice reflects the distribution of obligation limitation for the period beginning on October 1, 2018, and ending on February 15, 2019, based on the Continuing Appropriations Act, 2019, as amended by the Further Additional Continuing Appropriations Act, 2019.
3. **What is the overall limitation on obligations, and what provision determines its distribution?**
 - a. Section 101 of the Continuing Appropriations Act, 2019, as amended by the Further Additional Continuing Appropriations Act, 2019, sets an overall limitation on obligations at an annual rate for operations of \$44,234,212,000 for FY 2019. This annual rate for operations is equal to the obligation limitation made available in FY 2018 under the Department of Transportation Appropriations Act, 2018, title I of division L, Pub. L. 115-141.
 - b. The Continuing Appropriations Act, 2019, as amended by the Further Additional Continuing Appropriations Act, 2019, covers the period beginning on October 1, 2018, and ending on February 15, 2019 (138 days). The pro-rata for that period is 37.81 percent (138 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 \$16,724,955,557 (\$44,234,212,000 times 37.81 percent), which is a reduction of \$28,543,640,443 in the total obligation limitation distributed under FHWA Notice N4520.257.
 - c. Section 102 of the Continuing Appropriations Act, 2019, as amended by the Further Additional Continuing Appropriations Act, 2019, continues section 120 of the Department of Transportation Appropriations Act, 2018, providing

the distribution methodology for the overall limitation on Federal-aid highway program obligations.

- d. 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.
 - e. Unless otherwise specified, all obligation limitation is available for 1 fiscal year and will expire at the end of FY 2019.
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, 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 2019.

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, 2019, as amended by the Further Additional Continuing Appropriations Act, 2019, the annual rate for operations for limitation on Federal Highway Administration administrative expenses is \$439,443,925 (\$166,153,748 at the pro-rata of 37.81 percent). The annual rate for operations for limitation to be transferred to the Appalachian Regional Commission for administrative activities is \$3,248,000 (\$1,228,069 at the pro-rata of 37.81 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 the 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 2019 contract authority subject to obligation limitation is determined. The ratio calculated for FY 2019 under the Continuing Appropriations Act, 2019, as amended by the Further Additional Continuing Appropriations Act, 2019, is 87.8 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 the 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 2019 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, 2018, and ending on February 15, 2019, is then determined by multiplying the annualized amount of obligation limitation for each allocated program by the pro-rata of 37.81 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 the 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 2019 apportionments subject to the obligation limitation for each State bear to the total FY 2019 apportionments subject to the obligation limitation for all States.
- b. The formula obligation limitation available for the period beginning on October 1, 2018, and ending on February 15, 2019, is then determined by multiplying the annualized amount of formula obligation limitation for each State by the pro-rata of 37.81 percent.
- c. The attached Table 1 shows the amount of formula obligation limitation distributed to each State for the period beginning on October 1, 2018, and ending on February 15, 2019 (138 days) net of any obligation limitation associated with transfer or withholding penalty funding, or set aside under the high risk rural roads special rule, or set aside for the minimum condition of National Highway System bridges penalty (see paragraphs 7, 9, and 10 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 2019 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.

- 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, 2018, and ending on February 15, 2019, is then determined by multiplying the annualized amount of obligation limitation associated with transfer penalty funds for each State by the pro-rata of 37.81 percent.
 - e. The amounts of transfer penalty funds for FY 2019 and associated obligation limitation for the period beginning on October 1, 2018, and ending on February 15, 2019 (138 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 and lapsed immediately, such as required by 23 U.S.C. 159?** The formula obligation limitation associated with any funds withheld from apportionment and lapsed immediately due to such a penalty is distributed to the States pursuant to the Continuing Appropriations Act, 2019, as amended by the Further Additional Continuing Appropriations Act, 2019. 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 formula obligation limitation.
 - c. The obligation limitation associated with the high risk rural road safety special rule for the period beginning on October 1, 2018, and ending on February 15, 2019, 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 37.81 percent.

- d. The amounts of high risk rural roads special rule funds for FY 2019 and associated obligation limitation for the period beginning on October 1, 2018, and ending on February 15, 2019 (138 days) are shown in Table 3.

10. Is there any obligation limitation set aside for the minimum condition of National Highway System bridges penalty?

- a. Section 119(f)(2)(A) of title 23, U.S.C., provides for a penalty if a State for 3 consecutive years fails to maintain its National Highway System structurally deficient deck area at or below 10 percent. For the fiscal year after such a failure is determined, such a State must have an amount equal to 50 percent of its FY 2009 Highway Bridge Program apportionment set aside for use only on National Highway System bridge projects.
- b. Part 490.413(a)(1) of title 23, Code of Federal Regulations, requires such penalty funds to be obligated in the year in which they are set aside.
- c. The requirement to obligate such amounts during the next fiscal year is implemented by a set-aside of both National Highway Performance Program funds and, on an annualized basis, an equal amount of formula obligation limitation.
- d. The obligation limitation associated with the minimum condition of National Highway System bridges penalty for the period beginning on October 1, 2018, and ending on February 15, 2019, is then determined by multiplying the annualized amount of obligation limitation associated with the minimum condition of National Highway System bridges penalty for each State by the pro-rata of 37.81 percent.
- e. The amounts of the minimum condition of National Highway System bridges penalty funds for FY 2019 and associated obligation limitation for the period beginning on October 1, 2018, and ending on February 15, 2019 (138 days) are shown in Table 4.

11. 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 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 2019.

- 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, 2019, the Secretary will revise the distribution of obligation authority made available if a State does not plan to obligate the amount distributed during FY 2019 and redistribute such amount to those States able to obligate amounts in addition to those previously distributed during FY 2019. Procedures for this process (known as August Redistribution) will be provided via a separate notice to be issued in July.
12. **What action is required?** Division Administrators should ensure that copies of this Notice are provided to the State departments of transportation.



Brandye L. Hendrickson
Deputy Administrator

Attachments

U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

OBLIGATION LIMITATION DISTRIBUTION FOR THE PERIOD BEGINNING
ON OCTOBER 1, 2018, AND ENDING ON FEBRUARY 15, 2019, UNDER
THE CONTINUING APPROPRIATIONS ACT, 2019, AS AMENDED

STATE	Formula Obligation Limitation ¹
ALABAMA	266,272,116
ALASKA	169,163,491
ARIZONA	258,556,275
ARKANSAS	182,800,066
CALIFORNIA	1,272,847,861
COLORADO	183,989,776
CONNECTICUT	143,335,738
DELAWARE	58,518,744
DISTRICT OF COLUMBIA	56,381,016
FLORIDA	668,845,771
GEORGIA	453,749,242
HAWAII	57,221,143
IDAHO	100,536,453
ILLINOIS	472,629,832
INDIANA	329,299,434
IOWA	173,519,645
KANSAS	133,431,607
KENTUCKY	233,491,011
LOUISIANA	235,514,993
MAINE	59,358,466
MARYLAND	212,439,034
MASSACHUSETTS	178,906,014
MICHIGAN	372,074,173
MINNESOTA	225,368,538
MISSISSIPPI	166,951,880
MISSOURI	326,839,472
MONTANA	141,187,255
NEBRASKA	102,076,958
NEVADA	127,800,320
NEW HAMPSHIRE	58,380,378
NEW JERSEY	353,062,967
NEW MEXICO	126,096,756
NEW YORK	503,247,846
NORTH CAROLINA	368,408,312
NORTH DAKOTA	87,688,768
OHIO	453,743,503
OKLAHOMA	223,904,727
OREGON	171,752,032
PENNSYLVANIA	577,555,945
RHODE ISLAND	62,339,533
SOUTH CAROLINA	231,127,367
SOUTH DAKOTA	96,867,042
TENNESSEE	291,973,086
TEXAS	1,239,700,359
UTAH	122,137,485
VERMONT	70,179,031
VIRGINIA	350,088,522
WASHINGTON	233,191,675
WEST VIRGINIA	154,322,656
WISCONSIN	265,730,088
WYOMING	86,530,835
SUBTOTAL	13,491,135,237
Allocated Programs	2,870,602,599
Sections 154 and 164 Penalties	146,359,058
High Risk Rural Roads Special Rule	19,239,163
NHS Bridges Penalty	197,619,500
TOTAL	16,724,955,557

¹ The distribution of formula obligation limitation has been calculated based on the FY 2019 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, 2018, AND ENDING ON FEBRUARY 15, 2019, 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	22,967,952	7,629,193
ARIZONA	0	0
ARKANSAS	0	0
CALIFORNIA	76,822,652	25,517,941
COLORADO	11,861,130	3,939,875
CONNECTICUT	11,038,504	3,666,625
DELAWARE	3,791,728	1,259,487
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	0	0
HAWAII	7,647,754	2,540,331
IDAHO	0	0
ILLINOIS	0	0
INDIANA	21,928,255	7,283,840
IOWA	0	0
KANSAS	0	0
KENTUCKY	0	0
LOUISIANA	33,423,876	11,102,305
MAINE	4,199,721	1,395,008
MARYLAND	0	0
MASSACHUSETTS	0	0
MICHIGAN	0	0
MINNESOTA	14,983,399	4,976,989
MISSISSIPPI	11,464,476	3,808,119
MISSOURI	22,356,511	7,426,093
MONTANA	9,585,583	3,184,013
NEBRASKA	0	0
NEVADA	0	0
NEW HAMPSHIRE	0	0
NEW JERSEY	0	0
NEW MEXICO	8,626,287	2,865,367
NEW YORK	0	0
NORTH CAROLINA	0	0
NORTH DAKOTA	0	0
OHIO	60,047,866	19,945,912
OKLAHOMA	0	0
OREGON	11,612,289	3,857,218
PENNSYLVANIA	0	0
RHODE ISLAND	5,026,767	1,669,725
SOUTH CAROLINA	15,913,748	5,286,020
SOUTH DAKOTA	6,525,984	2,167,716
TENNESSEE	19,559,386	6,496,980
TEXAS	0	0
UTAH	0	0
VERMONT	4,602,889	1,528,927
VIRGINIA	23,258,991	7,725,867
WASHINGTON	15,431,203	5,125,735
WEST VIRGINIA	0	0
WISCONSIN	0	0
WYOMING	11,893,256	3,950,546
SUBTOTAL	434,570,207	144,349,832
Puerto Rico	6,052,400	2,009,226
TOTAL	440,622,607	146,359,058

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, 2018, AND ENDING
ON FEBRUARY 15, 2019, 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	4,124,978	1,559,654
ALASKA	900,000	340,290
ARIZONA	0	0
ARKANSAS	0	0
CALIFORNIA	0	0
COLORADO	2,826,084	1,068,542
CONNECTICUT	0	0
DELAWARE	0	0
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	6,299,452	2,381,823
HAWAII	0	0
IDAHO	1,294,798	489,563
ILLINOIS	6,048,546	2,286,955
INDIANA	0	0
IOWA	0	0
KANSAS	0	0
KENTUCKY	2,879,986	1,088,923
LOUISIANA	3,085,174	1,166,504
MAINE	0	0
MARYLAND	0	0
MASSACHUSETTS	0	0
MICHIGAN	0	0
MINNESOTA	0	0
MISSISSIPPI	0	0
MISSOURI	0	0
MONTANA	1,389,760	525,468
NEBRASKA	0	0
NEVADA	1,487,814	562,543
NEW HAMPSHIRE	0	0
NEW JERSEY	0	0
NEW MEXICO	1,887,424	713,635
NEW YORK	0	0
NORTH CAROLINA	0	0
NORTH DAKOTA	0	0
OHIO	0	0
OKLAHOMA	0	0
OREGON	2,440,120	922,609
PENNSYLVANIA	5,766,894	2,180,463
RHODE ISLAND	0	0
SOUTH CAROLINA	0	0
SOUTH DAKOTA	1,517,100	573,616
TENNESSEE	0	0
TEXAS	0	0
UTAH	1,331,318	503,371
VERMONT	0	0
VIRGINIA	4,459,774	1,686,241
WASHINGTON	3,144,572	1,188,963
WEST VIRGINIA	0	0
WISCONSIN	0	0
WYOMING	0	0
TOTAL	50,883,794	19,239,163

U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

MINIMUM CONDITION OF NATIONAL HIGHWAY SYSTEM (NHS) BRIDGES PENALTY FUNDS
AND ASSOCIATED OBLIGATION LIMITATION FOR THE PERIOD BEGINNING ON OCTOBER 1, 2018, AND
ENDING ON FEBRUARY 15, 2019, PURSUANT TO SECTION 119(f)(2)(A) OF TITLE 23, UNITED STATES CODE

STATE	TOTAL NHS BRIDGES PENALTY FUNDS	OBLIGATION LIMITATION FOR NHS BRIDGES PENALTY
ALABAMA	0	0
ALASKA	0	0
ARIZONA	0	0
ARKANSAS	0	0
CALIFORNIA	0	0
COLORADO	0	0
CONNECTICUT	80,781,889	30,543,632
DELAWARE	0	0
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	0	0
HAWAII	0	0
IDAHO	0	0
ILLINOIS	72,973,630	27,591,330
INDIANA	0	0
IOWA	0	0
KANSAS	0	0
KENTUCKY	0	0
LOUISIANA	0	0
MAINE	0	0
MARYLAND	0	0
MASSACHUSETTS	94,856,125	35,865,101
MICHIGAN	0	0
MINNESOTA	0	0
MISSISSIPPI	0	0
MISSOURI	0	0
MONTANA	0	0
NEBRASKA	0	0
NEVADA	0	0
NEW HAMPSHIRE	0	0
NEW JERSEY	0	0
NEW MEXICO	0	0
NEW YORK	239,023,417	90,374,754
NORTH CAROLINA	0	0
NORTH DAKOTA	0	0
OHIO	0	0
OKLAHOMA	0	0
OREGON	0	0
PENNSYLVANIA	0	0
RHODE ISLAND	35,029,577	13,244,683
SOUTH CAROLINA	0	0
SOUTH DAKOTA	0	0
TENNESSEE	0	0
TEXAS	0	0
UTAH	0	0
VERMONT	0	0
VIRGINIA	0	0
WASHINGTON	0	0
WEST VIRGINIA	0	0
WISCONSIN	0	0
WYOMING	0	0
TOTAL	522,664,638	197,619,500