



U.S. Department
of Transportation

**Federal Highway
Administration**

Notice

Subject:

**REVISED ADVANCE NOTIFICATION OF FEDERAL-AID HIGHWAY FUNDS
TO BE APPORTIONED FOR FISCAL YEAR (FY) 2013**

Classification Code	Date	Office of Primary Interest
N4510.755	August 3, 2012	HCFB-1

1. **What is the purpose of this Notice?** This Notice is to notify States, as required by section 104(e) of title 23, United States Code (U.S.C.), of the anticipated amounts of funds to be apportioned under 23 U.S.C. 104, as amended by the Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law 112-141, for FY 2013. It should be noted that the anticipated apportionment amounts are subject to change before issuing the certificate of apportionment, which is effective on October 1, 2012.
2. **Does this Notice cancel FHWA Notice 4510.751?** Yes, this Notice cancels FHWA Notice 4510.751, Advance Notification of Federal-aid Highway Funds to be Apportioned for Fiscal Year (FY) 2013, dated July 19, 2012. The revision to this Notice describes the set-aside from the transportation alternatives funding for the recreational trails program and informs States of the procedures to opt out of the set-aside (see paragraph 3 of this Notice).
3. **What are the procedures for opting out of the recreational trails program set-aside?**
 - a. Section 213(f) of title 23, U.S.C., as amended by MAP-21, provides for a set-aside from each State's transportation alternatives funding for the recreational trails program. The amount of the set-aside is equal to each State's FY 2009 apportionment for the recreational trails program. Each State subject to the set-aside must return 1 percent of the set-aside funds to the Secretary for administration, and these States must also comply with the provisions for the administration of the recreational trails program under section 206 of title 23, U.S.C.
 - b. Section 213(g) of title 23, U.S.C., as amended by MAP-21, allows a State to opt out of the recreational trails program set-aside. In order to opt out of the set-aside a State must inform the Federal Highway Administration (FHWA) of its decision to opt out no later than 30 days prior to apportionments being made for a fiscal year. Since apportionments for FY 2013 will be effective on October 1, 2012, a State must make notification of its decision to opt out by September 1, 2012. **Any State that desires to opt out of the recreational trails program set-aside shall notify FHWA via e-mail, with a letter signed by the Governor or the Governor's designee accompanying the**

opt-out notification, to the FHWA Office of Budget's official mailbox (BudDiv@dot.gov) no later than September 1, 2012. Note that failure to affirmatively opt out by the deadline will result in the recreational trails set-aside being applied to a State's transportation alternatives funding.

4. **Are certain States subject to potential withholdings or transfers? Yes.**

Currently, the States that are listed under the following requirements are subject to potential withholdings or transfers on October 1, 2012.

a. **Use of Safety Belts and Motorcycle Helmets – 23 U.S.C. 153**

Funds subject to 2 percent transfer to the State's Safety Program under 23 U.S.C. 402: National Highway Performance Program (NHPP), Surface Transportation Program (STP), and Highway Safety Improvement Program (HSIP).

New Hampshire

b. **Open Container Requirements – 23 U.S.C. 154**

Funds subject to 2.5 percent transfer to the State's Safety Program under 23 U.S.C. 402 or use for HSIP under 23 U.S.C. 148: NHPP and STP.

Alaska, Arkansas, Connecticut, Delaware, Louisiana, Mississippi, Missouri, Puerto Rico*, South Dakota, Tennessee, Virginia, West Virginia, and Wyoming

Note: To avoid a transfer on October 1, 2012, the National Highway Traffic Safety Administration (NHTSA) must receive from the State by September 30, 2012, a certificate and laws that conform to 23 U.S.C. 154 programs implementing regulations.

c. **National Minimum Drinking Age – 23 U.S.C. 158**

Funds subject to 8 percent withholding: NHPP and STP

Puerto Rico*

d. **Repeat Offenders – 23 U.S.C. 164**

Funds subject to 2.5 percent transfer to the State's Safety Program under 23 U.S.C. 402 or use for HSIP under 23 U.S.C. 148: NHPP and STP.

Alaska, California, Connecticut, Louisiana, Maryland, Minnesota, Missouri, Montana, New Mexico, Ohio, Oregon, Puerto Rico*, Rhode Island, South Dakota, Vermont, Washington, Wisconsin, and Wyoming

Note: The above list of States potentially subject to penalty does not take into account amendments made to 23 U.S.C. 164 by MAP-21. The States subject

* Puerto Rico highway program funds are no longer apportioned. Section 165 of title 23, U.S.C., states that, for the purpose of imposing penalties, such funds will be treated as being apportioned under 23 U.S.C. 104(b) and 144 (as in effect for FY 1997) in the same proportions as Puerto Rico's FY 1997 apportionments. Funds treated as being apportioned for the national highway system, STP, and Interstate maintenance program shall be deemed to have been apportioned 50 percent for NHPP and 50 percent for STP.

to penalty may change based on NHTSA and FHWA review of State laws in light of the amendments made by MAP-21.

e. **Transportation Management Area (TMA) Certification – 23 U.S.C. 134(k)**

Funds subject to up to 20 percent withholding: apportioned funds under 23 U.S.C. and chapter 53 of 49 U.S.C. attributable to the metropolitan planning area of the metropolitan planning organization that does not have a certified metropolitan planning process.

California (Imperial County)

5. **Are there obligation controls?** Yes. The obligation limitation associated with the funds transferred pursuant to 23 U.S.C. 153, 23 U.S.C. 154, and 23 U.S.C. 164 is subject to obligation controls in force at the time of the transfer.
6. **What are the anticipated FY 2013 apportionments?** The following table shows the FY 2013 anticipated apportionment amounts effective on October 1, 2012. The table shows the anticipated apportionments of NHPP, STP, HSIP, Congestion Mitigation and Air Quality Improvement Program, Metropolitan Planning, and Transportation Alternatives.
7. **What action is required?**
 - a. Division Administrators must ensure that this Notice is provided to State departments of transportation.
 - b. A State shall notify FHWA **no later than September 1, 2012**, of any decision to opt out of the recreational trails set-aside.



Victor M. Mendez
Administrator

Attachment

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

N4510.755

ADVANCE NOTICE OF ANTICIPATED FEDERAL-AID HIGHWAY PROGRAM APPORTIONMENTS FOR FY 2013
(Before Penalties)

STATE	NATIONAL HIGHWAY PERFORMANCE PROGRAM	SURFACE TRANSPORTATION PROGRAM	HIGHWAY SAFETY IMPROVEMENT PROGRAM	CONGESTION MITIGATION & AIR QUALITY	METROPOLITAN PLANNING	TRANSPORTATION ALTERNATIVES	TOTAL
ALABAMA	448,583,042	206,334,115	49,294,840	10,953,027	2,922,380	16,797,235	734,884,638
ALASKA	272,092,302	125,153,916	29,900,253	25,304,300	2,063,965	6,454,239	460,968,975
ARIZONA	405,470,434	186,503,669	44,557,191	49,761,109	5,556,382	16,855,672	708,704,457
ARKANSAS	303,976,340	139,819,573	33,403,993	11,838,189	1,635,099	10,835,135	501,508,329
CALIFORNIA	1,897,402,894	872,745,758	208,505,813	445,253,227	47,520,287	72,311,960	3,543,739,939
COLORADO	293,412,256	134,960,425	32,243,105	40,621,101	5,028,201	11,698,429	517,963,517
CONNECTICUT	274,430,415	126,229,375	30,157,189	42,704,595	4,409,933	8,576,285	486,507,792
DELAWARE	93,874,793	43,179,457	10,315,911	11,208,340	1,695,391	3,581,034	163,854,927
DIST. OF COL.	89,187,466	41,023,434	9,800,820	9,725,084	1,691,489	3,127,996	154,556,290
FLORIDA	1,116,917,809	513,747,124	122,738,221	13,002,282	19,599,096	49,223,461	1,835,227,993
GEORGIA	729,254,436	335,434,144	80,137,850	64,973,910	7,354,585	32,608,184	1,249,763,108
HAWAII	94,671,280	43,545,816	10,403,437	9,955,280	1,663,831	3,591,034	163,830,679
IDAHO	164,181,553	75,518,360	18,041,929	12,344,291	1,544,052	5,420,037	277,050,222
ILLINOIS	780,812,488	359,149,229	85,803,570	105,878,818	16,244,500	28,340,786	1,376,229,392
INDIANA	541,865,881	249,241,292	59,545,701	45,183,445	4,968,896	22,152,019	922,957,233
IOWA	280,409,241	128,979,447	30,814,202	10,551,629	1,834,310	10,241,972	462,830,801
KANSAS	219,648,357	101,031,348	24,137,182	9,087,456	1,841,325	10,298,554	366,044,222
KENTUCKY	391,819,968	180,224,883	43,057,139	13,191,338	2,414,758	12,882,145	643,590,231
LOUISIANA	415,906,373	191,303,873	45,703,997	11,052,399	4,109,474	11,768,480	679,844,596
MAINE	104,332,834	47,989,828	11,465,147	9,929,418	1,758,479	3,331,124	178,806,830
MARYLAND	325,128,137	149,548,735	35,728,367	51,531,127	6,587,976	11,939,521	580,463,863
MASSACHUSETTS	322,999,805	148,569,769	35,494,484	61,090,663	8,571,678	11,564,595	588,290,994
MICHIGAN	581,671,181	267,550,480	63,919,910	70,860,673	9,815,590	26,027,041	1,019,844,875
MINNESOTA	365,389,784	168,067,828	40,152,723	30,499,886	4,283,880	16,469,181	624,863,283
MISSISSIPPI	283,855,184	130,564,472	31,192,877	10,777,315	1,617,097	10,472,229	468,479,174
MISSOURI	550,626,708	253,270,998	60,508,429	22,525,705	4,917,248	19,314,760	911,163,848
MONTANA	229,679,398	105,645,312	25,239,494	13,841,580	1,654,709	5,811,893	381,872,385
NEBRASKA	166,803,603	76,724,420	18,330,066	9,867,722	1,573,700	6,677,429	279,976,941
NEVADA	198,103,783	91,121,520	21,769,646	31,442,304	3,137,189	6,162,394	351,736,836
NEW HAMPSHIRE	92,263,437	42,438,284	10,138,839	9,929,403	1,501,460	3,769,144	160,040,568
NEW JERSEY	530,716,014	244,112,703	58,320,441	99,929,621	11,830,828	17,557,243	962,466,850
NEW MEXICO	214,011,859	98,438,736	23,517,787	10,986,656	1,533,838	7,220,122	355,708,997
NEW YORK	889,926,698	409,338,340	97,794,143	176,895,488	23,871,729	28,066,018	1,625,892,416
NORTH CAROLINA	591,736,190	272,180,069	65,025,955	49,025,413	5,508,060	23,014,899	1,006,490,585
NORTH DAKOTA	142,997,782	65,774,490	15,714,042	10,155,049	1,604,367	4,235,665	240,481,394
OHIO	743,787,447	342,118,873	81,734,884	92,087,596	11,028,128	27,613,886	1,298,370,814
OKLAHOMA	373,597,461	171,843,102	41,054,666	11,285,710	2,457,362	14,088,956	614,327,257
OREGON	288,011,418	132,476,209	31,649,606	18,673,150	3,449,054	8,966,950	483,226,388
PENNSYLVANIA	922,872,241	424,492,255	101,414,532	100,925,293	12,401,019	27,166,829	1,589,272,169
RHODE ISLAND	125,382,905	57,672,200	13,778,341	10,097,364	1,779,652	3,131,418	211,841,880
SOUTH CAROLINA	368,183,784	169,352,980	40,459,756	11,758,881	2,798,990	15,574,228	608,128,620
SOUTH DAKOTA	162,058,244	74,541,704	17,808,598	11,821,612	1,685,837	5,253,074	273,169,069
TENNESSEE	483,993,455	222,621,794	53,186,094	35,570,454	4,569,739	18,119,645	818,061,181
TEXAS	1,792,222,471	824,366,066	196,947,524	144,120,899	21,210,687	77,848,685	3,056,716,332
UTAH	185,525,553	85,335,929	20,387,423	11,536,029	2,864,349	6,421,900	312,071,184
VERMONT	114,677,252	52,747,935	12,601,896	11,456,187	2,006,944	3,104,603	196,594,817
VIRGINIA	575,925,533	264,907,663	63,288,520	52,779,964	7,192,602	21,603,840	985,698,122
WASHINGTON	380,508,919	175,022,156	41,814,167	35,368,899	6,937,912	12,334,077	651,986,130
WEST VIRGINIA	255,430,498	117,490,009	28,069,286	13,845,750	1,628,975	6,846,915	423,311,434
WISCONSIN	427,051,757	196,430,400	46,928,765	25,876,282	4,274,619	18,697,724	719,259,547
WYOMING	148,390,385	68,254,918	16,306,636	10,090,704	1,515,547	3,589,359	248,147,550
TOTAL	21,751,779,050	10,005,135,419	2,390,305,390	2,209,172,618	311,667,197	808,760,000	37,476,819,674