



U.S. Department
of Transportation

**Federal Highway
Administration**

Notice

Subject:

**REVISED DISTRIBUTION OF FEDERAL-AID HIGHWAY PROGRAM
OBLIGATION LIMITATION FOR FISCAL YEAR (FY) 2013**

Classification Code	Date	Office of Primary Interest
N 4520.223	July 11, 2013	HCFB-1

1. **What is the purpose of this Notice?** This Notice is to advise the States of the revised distribution of the limitation on Federal-aid highway program obligations pursuant to the Consolidated and Further Continuing Appropriations Act, 2013, Public Law (Pub. L.) 113-6.
2. **Does this Notice cancel FHWA Notice 4520.222?** Yes, this Notice cancels FHWA Notice 4520.222, Distribution of Federal-Aid Highway Program Obligation Limitation for Fiscal Year (FY) 2013, dated April 24, 2013. This Notice reflects the final outcome of the administrative review process for the States newly subject to penalties under section 154 and section 164 of title 23, United States Code (U.S.C.).
3. **What is the overall limitation on obligations for FY 2013?**
 - a. Pursuant to section 1801(a)(2) of the Consolidated and Further Continuing Appropriations Act, 2013, the overall limitation on Federal-aid highway program obligations is equal to the level of FY 2013 contract authority subject to the obligation limitation. The contract authority authorized to be appropriated out of the Highway Trust Fund under the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, for FY 2013 is \$40,438,000,000, of which \$39,699,000,000 is subject to the obligation limitation. Therefore, the overall limitation on Federal-aid highway program obligations for FY 2013 is \$39,699,000,000.
 - b. As required by section 3004 of the Consolidated and Further Continuing Appropriations Act, 2013, the Office of Management and Budget has determined that there is a 0.2 percent across-the-board rescission that applies to Federal-aid highway program obligation limitation. A total reduction of \$79,398,000 (\$39,699,000,000 times 0.2 percent) applies to the overall limitation under this Notice.
 - c. The net amount of overall limitation on Federal-aid highway program obligations after the across-the-board rescission is \$39,619,602,000.

- d. Pursuant to section 1801(c) of the Consolidated and Further Continuing Appropriations Act, 2013, the distribution of the overall limitation on obligations shall be determined by applying the obligation limitation distribution methodology in section 1102 of MAP-21.*
 - e. Unless otherwise specified, all obligation limitation is available for one fiscal year and will expire at the end of FY 2013.
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

* Paragraphs (1) and (2) of section 1801(c) of the Continuing Appropriations Resolution, 2013, instruct that section 1102 of MAP-21 be applied with specified changes to the distribution language.

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 for FY 2013.

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 1801(a)(1) of the Consolidated and Further Continuing Appropriations Act, 2013, the limitation on Federal Highway Administration administrative expenses and for transfer to the Appalachian Regional Commission for administrative activities is equal to the level of FY 2013 contract authority for administrative expenses (excluding amounts deducted for other programs from the amount authorized for administrative expenses). 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, obligation limitation is provided 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.
- c. The ratio between the remaining obligation limitation and the remaining FY 2013 contract authority subject to obligation limitation is determined. The ratio calculated for FY 2013 under the Consolidated and Further Continuing Appropriations Act, 2013, is 95.9 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 amount of obligation limitation provided for each such program is determined by multiplying the amount of contract authority authorized for FY 2013 by the above ratio. The authorized contract authority that is not provided associated obligation limitation is "lopped off," resulting in equal amounts of contract authority and obligation limitation being available for such programs (except for the Tribal Transportation Program, which is not subject to the "lop off" of contract authority).

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 obligation limitation is distributed to the States as formula obligation limitation. The formula obligation limitation is distributed among the States in the proportions that the FY 2013 apportionments subject to the obligation limitation for each State bears to the total FY 2013 apportionments subject to the obligation limitation for all States.
 - b. The attached Table 1 shows the amount of FY 2013 formula obligation limitation distributed to each State for FY 2013 net of any obligation limitation associated with the penalty funding (see paragraph 7 of this Notice below).
7. **Is there any obligation limitation associated with penalty funds?**
- a. Yes, obligation limitation is associated with 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 2013 as determined by the National Highway Traffic Safety Administration. The amount of obligation limitation associated with the penalty funds is determined by multiplying the amount of the penalty funds by the ratio of a State's formula obligation limitation to that State's apportionments subject to the obligation limitation.
 - b. Along with the penalty funds, 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. The amounts of penalty funds and associated obligation limitation for FY 2013 are shown in Table 2.
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 division E of Pub. L. 112-141 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 2013.

- 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, 2013, the Secretary will revise the distribution of obligation authority made available if a State does not plan to obligate the amount distributed during FY 2013 and redistribute such amount to those States able to obligate amounts in addition to those previously distributed during FY 2013. Procedures for this process (known as August Redistribution) will be provided via a separate notice to be issued in mid-to-late July.
9. **What action is required?** Division Administrators should ensure that copies of this Notice are provided to the State departments of transportation.



Victor M. Mendez
Administrator

Attachments

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

OBLIGATION LIMITATION DISTRIBUTION FOR
FISCAL YEAR 2013 UNDER THE CONSOLIDATED AND
FURTHER CONTINUING APPROPRIATIONS ACT, 2013

STATE	Formula Obligation Limitation
ALABAMA	688,831,859
ALASKA	435,370,860
ARIZONA	650,616,469
ARKANSAS	459,330,022
CALIFORNIA	3,272,641,156
COLORADO	486,155,977
CONNECTICUT	446,993,251
DELAWARE	150,424,643
DISTRICT OF COLUMBIA	141,856,122
FLORIDA	1,720,188,250
GEORGIA	1,173,217,863
HAWAII	146,982,130
IDAHO	254,016,617
ILLINOIS	1,292,591,900
INDIANA	846,399,460
IOWA	426,894,869
KANSAS	343,178,928
KENTUCKY	603,319,173
LOUISIANA	607,795,550
MAINE	164,049,729
MARYLAND	521,862,034
MASSACHUSETTS	552,487,736
MICHIGAN	957,059,672
MINNESOTA	579,268,659
MISSISSIPPI	429,071,692
MISSOURI	839,999,333
MONTANA	364,225,269
NEBRASKA	256,594,101
NEVADA	323,181,926
NEW HAMPSHIRE	150,165,032
NEW JERSEY	908,231,611
NEW MEXICO	318,311,999
NEW YORK	1,527,079,966
NORTH CAROLINA	903,591,363
NORTH DAKOTA	225,540,143
OHIO	1,192,003,625
OKLAHOMA	562,545,112
OREGON	443,811,370
PENNSYLVANIA	1,491,186,466
RHODE ISLAND	194,275,207
SOUTH CAROLINA	570,076,439
SOUTH DAKOTA	244,696,001
TENNESSEE	750,444,186
TEXAS	2,867,152,600
UTAH	286,071,694
VERMONT	180,390,588
VIRGINIA	904,189,531
WASHINGTON	602,452,369
WEST VIRGINIA	387,876,267
WISCONSIN	683,461,819
WYOMING	222,239,560
SUBTOTAL	34,750,398,198
Allocated Programs	4,367,010,516
Sections 154 and 164 Penalties	502,193,286
TOTAL	39,619,602,000

U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

PENALTY FUNDS AND ASSOCIATED OBLIGATION LIMITATION
FOR FISCAL YEAR 2013 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	21,105,818	20,234,898
ARIZONA	15,069,385	14,447,555
ARKANSAS	11,284,269	10,818,630
CALIFORNIA	70,397,099	67,492,202
COLORADO	0	0
CONNECTICUT	10,130,894	9,712,848
DELAWARE	3,482,064	3,338,379
DISTRICT OF COLUMBIA	3,303,189	3,166,885
FLORIDA	0	0
GEORGIA	0	0
HAWAII	7,024,998	6,735,116
IDAHO	6,079,270	5,828,412
ILLINOIS	0	0
INDIANA	20,153,277	19,321,663
IOWA	10,488,662	10,055,853
KANSAS	0	0
KENTUCKY	0	0
LOUISIANA	30,748,742	29,479,912
MAINE	3,858,463	3,699,246
MARYLAND	24,076,104	23,082,616
MASSACHUSETTS	0	0
MICHIGAN	0	0
MINNESOTA	13,769,944	13,201,735
MISSISSIPPI	10,545,544	10,110,388
MISSOURI	20,562,322	19,713,829
MONTANA	8,813,565	8,449,878
NEBRASKA	6,204,754	5,948,718
NEVADA	7,311,936	7,010,213
NEW HAMPSHIRE	0	0
NEW JERSEY	0	0
NEW MEXICO	15,865,562	15,210,878
NEW YORK	0	0
NORTH CAROLINA	44,046,858	42,229,288
NORTH DAKOTA	0	0
OHIO	27,571,332	26,433,616
OKLAHOMA	13,889,161	13,316,033
OREGON	10,675,304	10,234,794
PENNSYLVANIA	0	0
RHODE ISLAND	4,619,708	4,429,078
SOUTH CAROLINA	0	0
SOUTH DAKOTA	11,997,428	11,502,360
TENNESSEE	17,979,203	17,237,301
TEXAS	0	0
UTAH	6,877,810	6,594,001
VERMONT	4,228,471	4,053,986
VIRGINIA	21,371,967	20,490,065
WASHINGTON	14,177,525	13,592,497
WEST VIRGINIA	9,427,942	9,038,903
WISCONSIN	0	0
WYOMING	10,933,322	10,482,164
SUBTOTAL	518,071,892	496,693,940
Puerto Rico *	5,734,458	5,499,346
TOTAL	523,806,350	502,193,286

* Puerto Rico Highway Program funding is allocated funding.