



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 DECEMBER 8, 2017**

Classification Code	Date	Office of Primary Interest
N4520.248	October 2, 2017	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.
2. **What is the overall limitation on obligations, and what provision determines its distribution?**
 - a. Section 101(a) of the 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, 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 Continuing Appropriations Act, 2018, covers the period beginning on October 1, 2017, and ending on December 8, 2017 (69 days). The pro-rata for that period is 18.90 percent (69 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 \$8,121,760,904 (\$42,972,279,915 times 18.90 percent).
 - d. Section 101(a) of the 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.

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 2018.

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, 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 (\$81,196,209 at the pro-rata of 18.90 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 (\$609,703 at the pro-rata of 18.90 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, 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," 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 December 8, 2017, is then determined by multiplying the annualized amount of obligation limitation for each allocated program by the pro-rata of 18.90 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 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 December 8, 2017, is then determined by multiplying the annualized amount of formula obligation limitation for each State by the pro-rata of 18.90 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 December 8, 2017 (69 days) net of any obligation limitation associated with transfer or withholding penalty funding or set aside under the high risk rural roads special rule (see paragraphs 6, 7, and 8 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 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 December 8, 2017, is then determined by multiplying the annualized amount of obligation limitation associated with transfer penalty funds for each State by the pro-rata of 18.90 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 December 8, 2017 (69 days) are shown in Table 2.

7. Is there any obligation limitation reserved based on a withholding penalty?

- a. Yes, obligation limitation is temporarily reserved from the State of Maine, which NHTSA determined is subject to penalty under the provisions of section 159 of title 23, U.S.C. (Revocation or Suspension of Drivers' Licenses for Drug Offenders), pending the completion of an administrative review by NHTSA.
- b. The reserved obligation limitation will be either restored to the State's formula obligation limitation or distributed to the other States not subject to penalty under section 159 of title 23, U.S.C., based on the final determination by NHTSA.
- c. The annualized amount of obligation limitation reserved from Maine is determined by multiplying the amount of the withholding penalty funds by the ratio of the State's annualized formula obligation limitation to the State's apportionments subject to the obligation limitation.
- d. The obligation limitation reserved from Maine for the period beginning on October 1, 2017, and ending on December 8, 2017, is then determined by multiplying the annualized amount of obligation limitation reserved by the pro-rata of 18.90 percent.
- e. The reserved amount of obligation limitation for the period beginning on October 1, 2017, and ending on December 8, 2017 (69 days) is shown in the bottom portion of Table 1.

8. 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 December 8, 2017, 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 18.90 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 December 8, 2017 (69 days) are shown in Table 3.

9. 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.

10. **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 DECEMBER 8, 2017, UNDER
THE CONTINUING APPROPRIATIONS ACT, 2018

STATE	Formula Obligation Limitation
ALABAMA	132,207,055
ALASKA	83,489,791
ARIZONA	127,631,769
ARKANSAS	88,216,049
CALIFORNIA	628,297,474
COLORADO	90,810,981
CONNECTICUT	85,827,553
DELAWARE	28,884,804
DISTRICT OF COLUMBIA	27,831,445
FLORIDA	330,155,322
GEORGIA	223,968,544
HAWAII	28,242,164
IDAHO	49,869,112
ILLINOIS	246,912,253
INDIANA	162,539,750
IOWA	85,653,019
KANSAS	65,864,797
KENTUCKY	115,249,241
LOUISIANA	116,813,028
MAINE	29,291,934
MARYLAND	104,867,790
MASSACHUSETTS	105,590,097
MICHIGAN	183,667,980
MINNESOTA	111,240,322
MISSISSIPPI	82,404,927
MISSOURI	161,323,350
MONTANA	69,685,133
NEBRASKA	50,387,686
NEVADA	63,083,418
NEW HAMPSHIRE	28,818,366
NEW JERSEY	174,286,165
NEW MEXICO	62,235,272
NEW YORK	293,037,041
NORTH CAROLINA	181,856,412
NORTH DAKOTA	43,285,468
OHIO	223,951,703
OKLAHOMA	108,040,453
OREGON	85,230,499
PENNSYLVANIA	285,085,865
RHODE ISLAND	37,307,830
SOUTH CAROLINA	116,698,580
SOUTH DAKOTA	48,095,846
TENNESSEE	144,115,313
TEXAS	634,769,844
UTAH	58,960,634
VERMONT	34,640,107
VIRGINIA	172,791,120
WASHINGTON	115,094,864
WEST VIRGINIA	76,177,291
WISCONSIN	131,170,943
WYOMING	42,707,592
SUBTOTAL	6,778,363,996
Allocated Programs	1,257,786,180
Sections 154 and 164 Penalties	75,708,758
Section 159 Penalty (Reserved)*	2,210,558
High Risk Rural Roads Special Rule	7,691,412
TOTAL	8,121,760,904

* Section 159 penalty obligation limitation is reserved pending the outcome of the administrative review by NHTSA.

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 DECEMBER 8, 2017, 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	3,777,964
ARIZONA	0	0
ARKANSAS	11,991,434	2,017,990
CALIFORNIA	75,079,552	12,634,833
COLORADO	11,592,970	1,950,934
CONNECTICUT	10,788,802	1,815,604
DELAWARE	3,706,057	623,677
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	0	0
HAWAII	7,475,048	1,257,945
IDAHO	0	0
ILLINOIS	0	0
INDIANA	21,433,575	3,606,969
IOWA	0	0
KANSAS	0	0
KENTUCKY	0	0
LOUISIANA	32,671,340	5,498,127
MAINE	4,104,915	690,800
MARYLAND	0	0
MASSACHUSETTS	0	0
MICHIGAN	0	0
MINNESOTA	14,645,358	2,464,608
MISSISSIPPI	11,206,289	1,885,861
MISSOURI	21,852,922	3,677,540
MONTANA	9,369,530	1,576,760
NEBRASKA	0	0
NEVADA	0	0
NEW HAMPSHIRE	0	0
NEW JERSEY	0	0
NEW MEXICO	8,431,917	1,418,973
NEW YORK	0	0
NORTH CAROLINA	0	0
NORTH DAKOTA	0	0
OHIO	58,691,082	9,876,884
OKLAHOMA	14,757,694	2,483,513
OREGON	11,350,472	1,910,125
PENNSYLVANIA	0	0
RHODE ISLAND	4,913,360	826,850
SOUTH CAROLINA	0	0
SOUTH DAKOTA	6,378,811	1,073,464
TENNESSEE	19,118,295	3,217,340
TEXAS	0	0
UTAH	7,881,881	1,326,410
VERMONT	4,498,962	757,112
VIRGINIA	22,734,082	3,825,827
WASHINGTON	15,082,868	2,538,235
WEST VIRGINIA	0	0
WISCONSIN	0	0
WYOMING	11,625,090	1,956,339
SUBTOTAL	443,831,978	74,690,684
Puerto Rico	6,052,400	1,018,074
TOTAL	449,884,378	75,708,758

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 DECEMBER 8, 2017, 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	170,100
ARIZONA	0	0
ARKANSAS	0	0
CALIFORNIA	0	0
COLORADO	2,826,084	534,130
CONNECTICUT	0	0
DELAWARE	0	0
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	6,299,452	1,190,597
HAWAII	0	0
IDAHO	0	0
ILLINOIS	6,048,546	1,143,175
INDIANA	0	0
IOWA	0	0
KANSAS	0	0
KENTUCKY	2,879,986	544,317
LOUISIANA	0	0
MAINE	0	0
MARYLAND	0	0
MASSACHUSETTS	2,273,676	429,725
MICHIGAN	0	0
MINNESOTA	0	0
MISSISSIPPI	0	0
MISSOURI	0	0
MONTANA	1,389,760	262,665
NEBRASKA	0	0
NEVADA	1,487,814	281,197
NEW HAMPSHIRE	0	0
NEW JERSEY	0	0
NEW MEXICO	1,887,424	356,723
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	1,089,943
RHODE ISLAND	0	0
SOUTH CAROLINA	0	0
SOUTH DAKOTA	0	0
TENNESSEE	0	0
TEXAS	0	0
UTAH	1,331,318	251,619
VERMONT	0	0
VIRGINIA	4,459,774	842,897
WASHINGTON	3,144,572	594,324
WEST VIRGINIA	0	0
WISCONSIN	0	0
WYOMING	0	0
TOTAL	40,695,300	7,691,412