



U.S. Department
of Transportation
**Federal Highway
Administration**

Notice

Subject:

**REVISED 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
N4520.249	October 6, 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. **Does this Notice cancel FHWA Notice 4520.248?** Yes, this Notice cancels FHWA Notice 4520.248, Distribution of Federal-aid Highway Program Obligation Limitation for the Period Beginning on October 1, 2017, and Ending on December 8, 2017, dated October 2, 2017. This Notice reflects that the contract authority previously reserved for Maine under FHWA Notice 4510.816 has lapsed in accordance with section 159(b) of title 23, United States Code (U.S.C.), and thus, the obligation limitation associated with the funding withheld from apportionment to Maine under that section is distributed to the States pursuant to the Continuing Appropriations Act, 2018, Pub. L. 115-56.
3. **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.
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, 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.

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 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 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 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.
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, Pub. L. 115-56. 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

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

STATE	Formula Obligation Limitation
ALABAMA	132,249,653
ALASKA	83,516,746
ARIZONA	127,672,893
ARKANSAS	88,244,472
CALIFORNIA	628,499,914
COLORADO	90,840,413
CONNECTICUT	85,855,208
DELAWARE	28,894,111
DISTRICT OF COLUMBIA	27,840,412
FLORIDA	330,261,699
GEORGIA	224,041,091
HAWAII	28,251,264
IDAHO	49,885,180
ILLINOIS	246,992,177
INDIANA	162,592,121
IOWA	85,680,616
KANSAS	65,886,019
KENTUCKY	115,286,550
LOUISIANA	116,850,665
MAINE	29,301,372
MARYLAND	104,901,578
MASSACHUSETTS	105,624,257
MICHIGAN	183,727,159
MINNESOTA	111,276,164
MISSISSIPPI	82,431,479
MISSOURI	161,375,329
MONTANA	69,707,670
NEBRASKA	50,403,921
NEVADA	63,103,835
NEW HAMPSHIRE	28,827,651
NEW JERSEY	174,342,320
NEW MEXICO	62,255,440
NEW YORK	293,131,459
NORTH CAROLINA	181,915,007
NORTH DAKOTA	43,299,415
OHIO	224,023,861
OKLAHOMA	108,075,264
OREGON	85,257,961
PENNSYLVANIA	285,178,072
RHODE ISLAND	37,319,851
SOUTH CAROLINA	116,736,181
SOUTH DAKOTA	48,111,342
TENNESSEE	144,161,747
TEXAS	634,974,370
UTAH	58,979,712
VERMONT	34,651,268
VIRGINIA	172,847,065
WASHINGTON	115,132,140
WEST VIRGINIA	76,201,835
WISCONSIN	131,213,207
WYOMING	42,721,353
SUBTOTAL	6,780,550,489
Allocated Programs	1,257,786,180
Sections 154 and 164 Penalties	75,732,823
High Risk Rural Roads Special Rule	7,691,412
TOTAL	8,121,760,904

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	3,779,182
ARIZONA	0	0
ARKANSAS	11,991,434	2,018,640
CALIFORNIA	75,079,552	12,638,904
COLORADO	11,592,970	1,951,563
CONNECTICUT	10,788,802	1,816,189
DELAWARE	3,706,057	623,878
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	0	0
HAWAII	7,475,048	1,258,351
IDAHO	0	0
ILLINOIS	0	0
INDIANA	21,433,575	3,608,132
IOWA	0	0
KANSAS	0	0
KENTUCKY	0	0
LOUISIANA	32,671,340	5,499,899
MAINE	4,104,915	691,022
MARYLAND	0	0
MASSACHUSETTS	0	0
MICHIGAN	0	0
MINNESOTA	14,645,358	2,465,402
MISSISSIPPI	11,206,289	1,886,469
MISSOURI	21,852,922	3,678,725
MONTANA	9,369,530	1,577,268
NEBRASKA	0	0
NEVADA	0	0
NEW HAMPSHIRE	0	0
NEW JERSEY	0	0
NEW MEXICO	8,431,917	1,419,430
NEW YORK	0	0
NORTH CAROLINA	0	0
NORTH DAKOTA	0	0
OHIO	58,691,082	9,880,066
OKLAHOMA	14,757,694	2,484,313
OREGON	11,350,472	1,910,740
PENNSYLVANIA	0	0
RHODE ISLAND	4,913,360	827,116
SOUTH CAROLINA	0	0
SOUTH DAKOTA	6,378,811	1,073,810
TENNESSEE	19,118,295	3,218,377
TEXAS	0	0
UTAH	7,881,881	1,326,837
VERMONT	4,498,962	757,356
VIRGINIA	22,734,082	3,827,059
WASHINGTON	15,082,868	2,539,052
WEST VIRGINIA	0	0
WISCONSIN	0	0
WYOMING	11,625,090	1,956,969
SUBTOTAL	443,831,978	74,714,749
Puerto Rico	6,052,400	1,018,074
TOTAL	449,884,378	75,732,823

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