



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 DECEMBER 7, 2018**

Classification Code	Date	Office of Primary Interest
N4520.256	October 9, 2018	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.
2. **What is the overall limitation on obligations, and what provision determines its distribution?**
 - a. Section 101 of the Continuing Appropriations Act, 2019, sets an overall limitation on obligations at an annual rate for operations of \$44,234,212,000 for Fiscal Year (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, covers the period beginning on October 1, 2018, and ending on December 7, 2018 (68 days). The pro-rata for that period is 18.63 percent (68 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 \$8,240,833,696 (\$44,234,212,000 times 18.63 percent).
 - c. Section 102 of the 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.

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 2019.

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, 2019, the annual rate for operations for limitation on Federal Highway Administration administrative expenses is \$439,443,925 (\$81,868,403 at the pro-rata of 18.63 percent). The annual rate for operations for limitation to be transferred to the Appalachian Regional Commission for administrative activities is \$3,248,000 (\$605,102 at the pro-rata of 18.63 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, is 87.1 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 December 7, 2018, is then determined by multiplying the annualized amount of obligation limitation for each allocated program by the pro-rata of 18.63 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 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 December 7, 2018, is then determined by multiplying the annualized amount of formula obligation limitation for each State by the pro-rata of 18.63 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 December 7, 2018 (68 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 6, 9, and 10 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 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. 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, 2018, 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, 2018, and ending on December 7, 2018, is then determined by multiplying the annualized amount of obligation limitation associated with transfer penalty funds for each State by the pro-rata of 18.63 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 December 7, 2018 (68 days) are shown in Table 2.
7. **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. See paragraph 5 for how obligation limitation is distributed to the States.
 8. **How is the distribution of the obligation limitation affected by a penalty that requires that funds be withheld from apportionment to a State, but are not lapsed immediately, such as required by 23 U.S.C. 163?** States subject to penalty under 23 U.S.C. 163 have up to 4 years to come into compliance. The formula obligation limitation associated with any funds withheld from apportionment to a State in the first year, but not subject to immediate lapse due to such a penalty is reserved from such State pursuant to the Continuing Appropriations Act, 2019, pending compliance with 23 U.S.C. 163. See paragraph 5 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, 2018, and ending on

December 7, 2018, 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 18.63 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 December 7, 2018 (68 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 December 7, 2018, 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 18.63 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 December 7, 2018 (68 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 DECEMBER 7, 2018, UNDER
THE CONTINUING APPROPRIATIONS ACT, 2019

STATE	Formula Obligation Limitation ¹
ALABAMA	130,135,022
ALASKA	82,677,763
ARIZONA	126,370,082
ARKANSAS	89,344,029
CALIFORNIA	622,107,850
COLORADO	89,921,257
CONNECTICUT	69,934,348
DELAWARE	28,601,195
DISTRICT OF COLUMBIA	27,556,375
FLORIDA	326,900,187
GEORGIA	221,761,709
HAWAII	27,966,989
IDAHO	49,135,519
ILLINOIS	230,880,376
INDIANA	160,945,993
IOWA	84,808,198
KANSAS	65,215,060
KENTUCKY	114,115,038
LOUISIANA	115,103,957
MAINE	29,011,612
MARYLAND	103,830,155
MASSACHUSETTS	87,298,270
MICHIGAN	181,852,263
MINNESOTA	110,149,485
MISSISSIPPI	81,598,185
MISSOURI	159,743,680
MONTANA	69,003,566
NEBRASKA	49,890,391
NEVADA	62,460,518
NEW HAMPSHIRE	28,533,568
NEW JERSEY	172,560,484
NEW MEXICO	61,627,296
NEW YORK	245,604,596
NORTH CAROLINA	180,060,563
NORTH DAKOTA	42,858,124
OHIO	221,768,370
OKLAHOMA	109,434,043
OREGON	83,940,605
PENNSYLVANIA	282,273,372
RHODE ISLAND	30,415,981
SOUTH CAROLINA	106,763,593
SOUTH DAKOTA	47,341,750
TENNESSEE	142,702,639
TEXAS	605,906,918
UTAH	59,693,027
VERMONT	34,300,192
VIRGINIA	171,100,015
WASHINGTON	113,968,340
WEST VIRGINIA	75,425,617
WISCONSIN	129,876,302
WYOMING	42,292,181
SUBTOTAL	6,586,766,648
Allocated Programs	1,469,480,960
Sections 154 and 164 Penalties	71,533,479
High Risk Rural Roads Special Rule	9,479,651
NHS Bridges Penalty	97,372,422
Section 163 Penalty (Reserved) ²	6,200,536
TOTAL	8,240,833,696

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.

² Section 163 penalty obligation limitation is reserved pending compliance with 23 U.S.C. 163. South Carolina enacted a complying law (Act 89) on May 19, 2017. The NHTSA anticipates that the State will begin enforcing the law on November 19, 2018. As such, it is anticipated that South Carolina will be compliant as of November 19, 2018.

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 DECEMBER 7, 2018, 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	3,728,789
ARIZONA	0	0
ARKANSAS	0	0
CALIFORNIA	76,822,652	12,471,963
COLORADO	11,861,130	1,925,624
CONNECTICUT	11,038,504	1,792,073
DELAWARE	3,791,728	615,577
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	0	0
HAWAII	7,647,754	1,241,593
IDAHO	0	0
ILLINOIS	0	0
INDIANA	21,928,255	3,559,997
IOWA	0	0
KANSAS	0	0
KENTUCKY	0	0
LOUISIANA	33,423,876	5,426,281
MAINE	4,199,721	681,814
MARYLAND	0	0
MASSACHUSETTS	0	0
MICHIGAN	0	0
MINNESOTA	14,983,399	2,432,517
MISSISSIPPI	11,464,476	1,861,229
MISSOURI	22,356,511	3,629,523
MONTANA	9,585,583	1,556,195
NEBRASKA	0	0
NEVADA	0	0
NEW HAMPSHIRE	0	0
NEW JERSEY	0	0
NEW MEXICO	8,626,287	1,400,456
NEW YORK	0	0
NORTH CAROLINA	0	0
NORTH DAKOTA	0	0
OHIO	60,047,866	9,748,619
OKLAHOMA	0	0
OREGON	11,612,289	1,885,226
PENNSYLVANIA	0	0
RHODE ISLAND	5,026,767	816,083
SOUTH CAROLINA	15,913,748	2,583,557
SOUTH DAKOTA	6,525,984	1,059,477
TENNESSEE	19,559,386	3,175,417
TEXAS	0	0
UTAH	0	0
VERMONT	4,602,889	747,267
VIRGINIA	23,258,991	3,776,038
WASHINGTON	15,431,203	2,505,217
WEST VIRGINIA	0	0
WISCONSIN	0	0
WYOMING	11,893,256	1,930,840
SUBTOTAL	434,570,207	70,551,372
Puerto Rico	6,052,400	982,107
TOTAL	440,622,607	71,533,479

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 DECEMBER 7, 2018, 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	768,483
ALASKA	900,000	167,670
ARIZONA	0	0
ARKANSAS	0	0
CALIFORNIA	0	0
COLORADO	2,826,084	526,500
CONNECTICUT	0	0
DELAWARE	0	0
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	6,299,452	1,173,588
HAWAII	0	0
IDAHO	1,294,798	241,221
ILLINOIS	6,048,546	1,126,844
INDIANA	0	0
IOWA	0	0
KANSAS	0	0
KENTUCKY	2,879,986	536,541
LOUISIANA	3,085,174	574,768
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	258,912
NEBRASKA	0	0
NEVADA	1,487,814	277,180
NEW HAMPSHIRE	0	0
NEW JERSEY	0	0
NEW MEXICO	1,887,424	351,627
NEW YORK	0	0
NORTH CAROLINA	0	0
NORTH DAKOTA	0	0
OHIO	0	0
OKLAHOMA	0	0
OREGON	2,440,120	454,594
PENNSYLVANIA	5,766,894	1,074,372
RHODE ISLAND	0	0
SOUTH CAROLINA	0	0
SOUTH DAKOTA	1,517,100	282,636
TENNESSEE	0	0
TEXAS	0	0
UTAH	1,331,318	248,025
VERMONT	0	0
VIRGINIA	4,459,774	830,856
WASHINGTON	3,144,572	585,834
WEST VIRGINIA	0	0
WISCONSIN	0	0
WYOMING	0	0
TOTAL	50,883,794	9,479,651

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 DECEMBER 7, 2018, 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	15,049,666
DELAWARE	0	0
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	0	0
HAWAII	0	0
IDAHO	0	0
ILLINOIS	72,973,630	13,594,987
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	17,671,696
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	44,530,063
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	6,526,010
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	97,372,422