



U.S. Department  
of Transportation

**Federal Highway  
Administration**

# Notice

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Subject:

**DISTRIBUTION OF FEDERAL-AID HIGHWAY PROGRAM  
OBLIGATION LIMITATION FOR FISCAL YEAR (FY) 2019**

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Classification Code

Date

Office of Primary Interest

**N4520.257**

January 8, 2019

**HCFB-10**

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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 Fixing America's Surface Transportation (FAST) Act, Public Law 114-94.
2. **Does this Notice cancel FHWA Notice 4520.256?** Yes, this Notice cancels FHWA Notice 4520.256, Distribution of Federal-aid Highway Program Obligation Limitation for the Period Beginning on October 1, 2018, and Ending on December 7, 2018, dated October 9, 2018. This Notice reflects the distribution of obligation limitation through September 30, 2019, based on the FAST Act. A revised Notice was not issued for the Continuing Resolution (CR) covering the period from December 8, 2018, to December 21, 2018, due to the short duration of the CR making a distribution unfeasible from a programmatic standpoint. This Notice includes the period from December 8, 2018, through September 30, 2019.
3. **What is the overall limitation on obligations, and what provision determines its distribution?**
  - a. In the absence of a FY 2019 appropriations act or a CR, the overall limitation on obligations and its distribution is determined according to section 1102 of the FAST Act. Once an appropriations act or CR is enacted, the Federal Highway Administration will be subject to the terms and conditions of that legislation. Another Notice will be issued adjusting the obligation limitation distribution and obligation limitation levels so they are consistent with the appropriations act or CR. If another partial-year CR is enacted, it will likely significantly reduce the amount of obligation limitation available to each State. States should plan accordingly.
  - b. Pursuant to section 1102(a) of the FAST Act, the overall limitation on Federal-aid highway program obligations for FY 2019 is \$45,268,596,000.
  - c. The overall limitation on obligations shall be distributed pursuant to section 1102(c) of the FAST Act.
  - d. Unless otherwise specified, all obligation limitation is available for 1 fiscal year and will expire at the end of FY 2019.

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, 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 21<sup>st</sup> 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 21<sup>st</sup> 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.

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. 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 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. Obligation limitation is provided equal to such unobligated balances of contract authority.
  - c. The ratio between the remaining obligation limitation and the remaining FY 2019 contract authority subject to obligation limitation is determined. The ratio calculated for FY 2019 under the FAST Act is 90.1 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 amount of obligation limitation provided for each such program is determined by multiplying the amount of contract authority authorized for FY 2019 by the above ratio. The amount of contract authority authorized that is not provided associated obligation limitation is “lopped off,” resulting in equal amounts of contract authority and obligation limitation 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 the Federal Lands Access Program) as described above, the remaining 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 attached Table 1 shows the amount of FY 2019 formula obligation limitation distributed to each State, 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 7, 9, and 10 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 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.
  - c. The 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 formula obligation limitation to that State's apportionments subject to the obligation limitation.
  - d. The amounts of transfer penalty funds and associated obligation limitation for FY 2019 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 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 FAST Act. 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 an equal amount of formula obligation limitation.

- c. The amounts of high risk rural roads special rule funds and associated obligation limitation for FY 2019 are shown in Table 3.

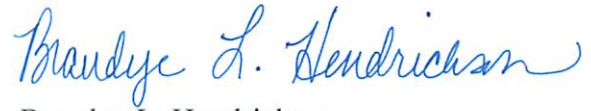
**10. Is there any obligation limitation set aside for the minimum condition of National Highway System bridges penalty?**

- 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 an equal amount of formula obligation limitation.
- d. The amounts of the minimum condition of National Highway System bridges penalty funds and associated obligation limitation for FY 2019 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 FISCAL YEAR 2019 UNDER THE  
FIXING AMERICA'S SURFACE TRANSPORTATION ACT

STATE	Formula Obligation Limitation <sup>1</sup>
ALABAMA	722,748,359
ALASKA	459,119,283
ARIZONA	701,700,409
ARKANSAS	496,104,306
CALIFORNIA	3,454,404,133
COLORADO	499,406,932
CONNECTICUT	391,112,383
DELAWARE	158,815,045
DISTRICT OF COLUMBIA	153,013,429
FLORIDA	1,815,192,267
GEORGIA	1,231,602,642
HAWAII	155,293,464
IDAHO	272,881,480
ILLINOIS	1,284,743,414
INDIANA	893,691,510
IOWA	470,918,006
KANSAS	362,122,378
KENTUCKY	633,750,609
LOUISIANA	639,248,890
MAINE	161,093,984
MARYLAND	576,542,020
MASSACHUSETTS	488,014,969
MICHIGAN	1,009,778,622
MINNESOTA	611,631,628
MISSISSIPPI	453,093,634
MISSOURI	887,015,375
MONTANA	383,206,886
NEBRASKA	277,028,447
NEVADA	346,878,411
NEW HAMPSHIRE	158,439,531
NEW JERSEY	958,183,779
NEW MEXICO	342,265,520
NEW YORK	1,372,019,369
NORTH CAROLINA	999,829,778
NORTH DAKOTA	237,980,086
OHIO	1,231,422,451
OKLAHOMA	607,658,964
OREGON	466,184,617
PENNSYLVANIA	1,567,589,910
RHODE ISLAND	170,099,752
SOUTH CAROLINA	627,260,616
SOUTH DAKOTA	262,928,809
TENNESSEE	792,390,880
TEXAS	3,364,444,546
UTAH	331,505,853
VERMONT	190,460,101
VIRGINIA	950,227,924
WASHINGTON	632,945,151
WEST VIRGINIA	418,818,963
WISCONSIN	721,169,546
WYOMING	234,837,552
SUBTOTAL	36,628,816,613
Allocated Programs	7,669,024,204
Sections 154 and 164 Penalties	397,206,751
High Risk Rural Roads Special Rule	50,883,794
NHS Bridges Penalty	522,664,638
TOTAL	45,268,596,000

<sup>1</sup> 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.

U. S. DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

PENALTY FUNDS AND ASSOCIATED OBLIGATION LIMITATION  
FOR FISCAL YEAR 2019 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	20,705,000
ARIZONA	0	0
ARKANSAS	0	0
CALIFORNIA	76,822,652	69,253,587
COLORADO	11,861,130	10,692,495
CONNECTICUT	11,038,504	9,950,919
DELAWARE	3,791,728	3,418,142
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	0	0
HAWAII	7,647,754	6,894,248
IDAHO	0	0
ILLINOIS	0	0
INDIANA	21,928,255	19,767,741
IOWA	0	0
KANSAS	0	0
KENTUCKY	0	0
LOUISIANA	33,423,876	30,130,740
MAINE	4,199,721	3,785,937
MARYLAND	0	0
MASSACHUSETTS	0	0
MICHIGAN	0	0
MINNESOTA	14,983,399	13,507,138
MISSISSIPPI	11,464,476	10,334,922
MISSOURI	22,356,511	20,153,803
MONTANA	9,585,583	8,641,149
NEBRASKA	0	0
NEVADA	0	0
NEW HAMPSHIRE	0	0
NEW JERSEY	0	0
NEW MEXICO	8,626,287	7,776,369
NEW YORK	0	0
NORTH CAROLINA	0	0
NORTH DAKOTA	0	0
OHIO	60,047,866	54,131,562
OKLAHOMA	0	0
OREGON	11,612,289	10,468,171
PENNSYLVANIA	0	0
RHODE ISLAND	5,026,767	4,531,497
SOUTH CAROLINA	15,913,748	14,345,823
SOUTH DAKOTA	6,525,984	5,883,002
TENNESSEE	19,559,386	17,632,269
TEXAS	0	0
UTAH	0	0
VERMONT	4,602,889	4,149,383
VIRGINIA	23,258,991	20,967,365
WASHINGTON	15,431,203	13,910,821
WEST VIRGINIA	0	0
WISCONSIN	0	0
WYOMING	11,893,256	10,721,456
SUBTOTAL	434,570,207	391,753,539
Puerto Rico	6,052,400	5,453,212
TOTAL	440,622,607	397,206,751

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 FISCAL YEAR 2019 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	4,124,978
ALASKA	900,000	900,000
ARIZONA	0	0
ARKANSAS	0	0
CALIFORNIA	0	0
COLORADO	2,826,084	2,826,084
CONNECTICUT	0	0
DELAWARE	0	0
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	6,299,452	6,299,452
HAWAII	0	0
IDAHO	1,294,798	1,294,798
ILLINOIS	6,048,546	6,048,546
INDIANA	0	0
IOWA	0	0
KANSAS	0	0
KENTUCKY	2,879,986	2,879,986
LOUISIANA	3,085,174	3,085,174
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	1,389,760
NEBRASKA	0	0
NEVADA	1,487,814	1,487,814
NEW HAMPSHIRE	0	0
NEW JERSEY	0	0
NEW MEXICO	1,887,424	1,887,424
NEW YORK	0	0
NORTH CAROLINA	0	0
NORTH DAKOTA	0	0
OHIO	0	0
OKLAHOMA	0	0
OREGON	2,440,120	2,440,120
PENNSYLVANIA	5,766,894	5,766,894
RHODE ISLAND	0	0
SOUTH CAROLINA	0	0
SOUTH DAKOTA	1,517,100	1,517,100
TENNESSEE	0	0
TEXAS	0	0
UTAH	1,331,318	1,331,318
VERMONT	0	0
VIRGINIA	4,459,774	4,459,774
WASHINGTON	3,144,572	3,144,572
WEST VIRGINIA	0	0
WISCONSIN	0	0
WYOMING	0	0
TOTAL	50,883,794	50,883,794

U. S. DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

MINIMUM CONDITION OF NATIONAL HIGHWAY SYSTEM (NHS) BRIDGES PENALTY FUNDS  
AND ASSOCIATED OBLIGATION LIMITATION FOR FISCAL YEAR 2019 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	80,781,889
DELAWARE	0	0
DISTRICT OF COLUMBIA	0	0
FLORIDA	0	0
GEORGIA	0	0
HAWAII	0	0
IDAHO	0	0
ILLINOIS	72,973,630	72,973,630
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	94,856,125
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	239,023,417
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	35,029,577
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	522,664,638