



U.S. Department
of Transportation

**Federal Highway
Administration**

Notice

Subject:

**REVISED APPORTIONMENT OF FISCAL YEAR (FY) 2008
ELIMINATION OF HAZARDS RELATING TO RAILWAY-HIGHWAY
CROSSINGS PROGRAM FUNDS**

Classification Code

Date

Office of Primary Interest

N 4510.669

January 30, 2008

HCFB-1

1. **What is the purpose of this Notice?** This Notice transmits the revised certificate of apportionment of Elimination of Hazards Relating to Railway-Highway Crossings Program funds authorized for FY 2008 pursuant to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law (Pub. L. No.) 109-59. The apportionment is effective immediately.
2. **Does this Notice cancel FHWA Notice 4510.657?** Yes, this Notice cancels FHWA Notice 4510.657, Apportionment of Fiscal Year (FY) 2008 Elimination of Hazards Relating to Railway-Highway Crossings Program Funds, dated October 1, 2007. The revisions to the apportionment are required to reflect the correction of an error in the estimates of FY 2006 Highway Trust Fund contributions (the most current data upon which FY 2008 apportionments are based). United States Comptroller General Decision B-275490 (December 5, 1996) requires that incorrect apportionments be appropriately adjusted to ensure compliance with the statutory formula for apportioning Federal highway funds enacted by Congress. See also 41 Comp. Gen. 16 (1961).
3. **What is the availability of these funds?**
 - a. The Elimination of Hazards Relating to Railway-Highway Crossings Program funds resulting from this apportionment are available for obligation until September 30, 2011. Any amounts not obligated by the State on or before September 30, 2011, shall lapse.
 - b. The funds resulting from this apportionment are available for obligation immediately and will be subject to obligation controls in force at the time of obligation.
 - c. The Federal share is 90 percent.
 - d. The program codes to be used when obligating these funds are LS40 and LS50.

4. **What is the background information?**
- a. Section 1401(d) of the SAFETEA-LU, amends Section 130(e) of Title 23, United States Code (U.S.C.), to authorize the Secretary to set aside, before an apportionment of Highway Safety Improvement Program funds under Section 104(b) of Title 23, U.S.C., at least \$220,000,000 for the elimination of hazards and the installation of protective devices at railway-highway crossings.
 - b. According to a Special Rule pursuant to Section 130(e) of Title 23, U.S.C., States that demonstrate to the satisfaction of the Secretary of Transportation that they have met all of their needs for installation of protective devices at railway-highway crossings may use funds made available by this section for other purposes under Section 130(e).
 - c. As required by Section 130(f) of Title 23, U.S.C., 50 percent of the set aside funds are apportioned to the States in accordance with the formula set forth in Section 104(b)(3)(A), and 50 percent of such funds are apportioned to the States in the ratio that total public railway-highway crossings in each State bears to the total of such crossings in all States. Notwithstanding this requirement, each State shall receive a minimum of $\frac{1}{2}$ of 1 percent of these funds.
 - d. As required by Section 130(k) of Title 23, U.S.C., not more than 2 percent of these Section funds may be used by the State for compilation and analysis of data in support of the report activities of Section 130(g).
5. **What action is required?** Division Administrators should ensure that copies of this Notice are provided to the State departments of transportation.



J. Richard Capka
Administrator

Attachment

**CERTIFICATE OF APPORTIONMENT FROM THE SUM OF
\$220,000,000 SET ASIDE FOR ELIMINATION OF HAZARDS RELATING TO
RAILWAY-HIGHWAY CROSSINGS FROM THE AUTHORIZATION FOR THE
HIGHWAY SAFETY IMPROVEMENT PROGRAM
FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2008**

TO--

The Secretary of the Treasury of the United States and the State departments of transportation:

Pursuant to Section 9503 of the Internal Revenue Code of 1986, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Title 23, United States Code, and the delegation of authority from the Secretary of Transportation to the Federal Highway Administrator, Section 1.48 of Title 49, Code of Federal Regulations, I certify--

First, that the Secretary of the Treasury has made the estimate required by Section 9503(d) of the Internal Revenue Code of 1986 and, based on that estimate, I have determined that the amount that can be apportioned for the Elimination of Hazards Relating to Railway-Highway Crossings for the fiscal year ending September 30, 2008, pursuant to Section 1401(d) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, which amended Section 130(e) of Title 23, United States Code, is \$220,000,000, which is 100 percent of the amount authorized to be appropriated for the fiscal year.

Second, that I have computed the apportionment for Elimination of Hazards Relating to Railway-Highway Crossings for the purpose of carrying out Section 130 of Title 23, United States Code, among the States and the District of Columbia in the manner provided by law in accordance with the formula in Section 130(f) of Title 23, United States Code.

Third, the sums that are hereby apportioned to the several States, effective immediately, are respectively as follows:

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION**

**REVISED APPORTIONMENT OF FUNDS FOR THE
ELIMINATION OF HAZARDS RELATING TO
RAILWAY-HIGHWAY CROSSINGS PROGRAM
AUTHORIZED FOR FISCAL YEAR 2008**

<u>STATE</u>	<u>AMOUNT</u>
ALABAMA	\$4,402,428
ALASKA	1,100,000
ARIZONA	2,643,819
ARKANSAS	3,715,371
CALIFORNIA	15,799,013
COLORADO	3,130,510
CONNECTICUT	1,308,802
DELAWARE	1,100,000
DIST. OF COL.	1,100,000
FLORIDA	8,536,504
GEORGIA	8,181,350
HAWAII	1,100,000
IDAHO	1,656,853
ILLINOIS	10,055,232
INDIANA	7,204,490
IOWA	4,947,537
KANSAS	6,123,937
KENTUCKY	3,567,557
LOUISIANA	4,159,189
MAINE	1,186,942
MARYLAND	2,273,932
MASSACHUSETTS	2,360,935
MICHIGAN	7,768,635
MINNESOTA	5,914,043
MISSISSIPPI	3,328,546
MISSOURI	6,034,429
MONTANA	1,748,422
NEBRASKA	3,705,049
NEVADA	1,100,000
NEW HAMPSHIRE	1,100,000
NEW JERSEY	3,588,846
NEW MEXICO	1,565,355
NEW YORK	6,328,237
NORTH CAROLINA	6,171,837
NORTH DAKOTA	3,472,532
OHIO	8,555,008
OKLAHOMA	5,052,599
OREGON	3,105,301
PENNSYLVANIA	7,191,491
RHODE ISLAND	1,100,000
SOUTH CAROLINA	4,096,530
SOUTH DAKOTA	2,308,872
TENNESSEE	4,591,335
TEXAS	16,934,757
UTAH	1,586,657
VERMONT	1,100,000
VIRGINIA	4,458,740
WASHINGTON	3,991,859
WEST VIRGINIA	1,985,435
WISCONSIN	5,361,084
WYOMING	1,100,000
TOTAL	\$220,000,000

APPROVED EFFECTIVE



 FEDERAL HIGHWAY ADMINISTRATOR