

FAST ACT SECTION 1116 NATIONAL HIGHWAY FREIGHT PROGRAM QUESTIONS AND ANSWERS

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Authorized Funding, Apportionment and Obligation

Question 1: How much funding does the FAST Act authorize for freight projects under the new National Highway Freight Program (NHFP)?

Answer 1: Total authorizations for FY 2016, FY 2017, FY 2018, FY 2019, and FY 2020 are \$1.15B, \$1.1B, \$1.2B, \$1.35B, and \$1.5B, respectively. Total authorizations are reduced because FAST Act 1104(b)(6) requires that a portion of the amount be set aside to carry out the Metropolitan Planning Program under 23 U.S.C. 134. The detailed table showing authorized funding for individual programs under the FAST Act can be found [here](#).

Question 2: How will authorized funds be apportioned to each State?

Answer 2: In accordance with 23 U.S.C 104(b), for each fiscal year the Secretary shall distribute among the States the total set-aside (See FY amounts in Question 1) amount for the NHFP. Each State receives NHFP funds in proportion to the amount of funds a State receives compared to other States under all formula apportioned programs. For example, if a State receives 4% of Federal-aid formula funding, the State will receive 4% of the NHFP funding. Estimated apportionments under the FAST Act are found [here](#).

Question 3: What is the Federal share for National Highway Freight Program (NHFP) funds?

Answer 3: The Federal share for NHFP funds is governed by [23 U.S.C. 120](#). The Federal share is generally 80 percent, subject to the upward sliding scale adjustment for States containing public lands. The Federal share for projects on the Interstate system is 90 percent, subject to the upward sliding scale adjustment, unless the project adds lanes that are not high-occupancy-vehicle or auxiliary lanes.

Question 4: Are there any limitations on how apportioned NHFP funds can be used for projects?

Answer 4: Yes. For each fiscal year, a State may obligate not more than 10 percent of the total apportionment of the State's NHFP funding for freight intermodal or freight rail projects, including projects:

- within the boundaries of public or private freight rail or water facilities (including ports); and
- that provide surface transportation infrastructure necessary to facilitate direct intermodal interchange, transfer, and access into or out of the facility. (23 U.S.C. 167(i)(5)(B)).

Question 5: Is there a linkage between a State's freight plan and the obligation of apportioned funds?

Answer 5: Yes. Notwithstanding any other provision of law, effective beginning 2 years after the date of enactment of the FAST Act (December 4, 2015), a State may **not** obligate NHFP funds unless the State has developed a freight plan in accordance with 49 U.S.C. 70202. Among several requirements under the FAST Act, State Freight Plans must demonstrate how the apportioned funds will be used and matched, and include a fiscally constrained list of projects prioritized for investment. 49 U.S.C. 70202(b) and (c). If the State Freight Plan is complete, except the multimodal components of that plan, the State may continue to obligate NHFP funds (see also Question 1 under Freight Planning in this document). 23 U.S.C.167(i)(4). There are limitations on the use of funds based on the State's portion of the Primary Highway Freight System. For details, see Question 5 under National Highway Freight Network.

National Highway Freight Network

Question 1: What is the National Highway Freight Network (NHFN)?

Answer 1: The FAST Act directs the FHWA Administrator to establish a NHFN to strategically direct Federal resources and policies toward improved performance of highway portions of the U.S. freight transportation system. The NHFN includes the following four subsystems of roadways:

- **Primary Highway Freight System (PHFS):** This is a network of highways identified as the most critical highway portions of the U.S. freight transportation system determined by measurable national data (23 U.S.C.167(d)(2)(C)). The initial network consists of 41,518 centerlines miles, including 37,436 centerline miles of Interstate and 4,082 centerline miles of non-Interstate roads.
- **Other Interstate portions not on the PHFS:** These highways consist of the remaining portion of Interstate roads not included in the PHFS, as designated under 23 CFR 470.107. These routes provide important continuity and access to freight transportation facilities. As of December 31, 2013, these portions amounted to approximately 9,511 centerline miles of Interstate, nationwide. This number and the total mileage of the NHFN will fluctuate with additions (including conversions of State routes) and deletions to the Interstate Highway System.
- **Critical Rural Freight Corridors (CRFCs):** These are public roads not in an urbanized area, to be designated by the States, which provide access and connection to the PHFS and the Interstate with other important ports, public transportation facilities, or other intermodal freight facilities. See Questions 6, 7 and 8 for more details.
- **Critical Urban Freight Corridors (CUFCs):** These are public roads in urbanized areas which provide access and connection to the PHFS and the Interstate with other ports, public transportation facilities, or other intermodal transportation facilities. See Questions 6, 7, and 8 for more details.

Prior to designation of any CRFCs or CUFCs, the NHFN consists of mileage on the PHFS and other Interstate portions not on the PHFS, for an estimated total of **51,029 centerline miles**.

Question 2: Where can I find more information on the Primary Highway Freight System (PHFS) 41,518 mile network?

Answer 2: The FAST Act establishes the initial designation of the PHFS as the 41,518 mile network identified during the designation process for the primary freight network (PFN) under 23 U.S.C. 167(d). On November 19, 2013, FHWA published the draft designation of the highway-only PFN in the [Federal Register Notice at 78 FR 68520](#). The initial draft designation also offered for consideration and comment a larger, connected network of routes—a 41,518-mile “comprehensive” highway-only PFN. Information on the methodology and data used for the development of the 41,518-mile comprehensive network is provided in the 2013 Federal Register Notice as well as in the October 23, 2015, [Federal Register Notice](#) which designated the more limited Final Highway Primary Freight Network. Individual State maps and tables of the 41,518-mile comprehensive highway-only PFN were available [here](#) and have been updated to reflect the new designation of this network as the NHFN under the FAST Act.

Question 3: How often will the Primary Highway Freight System (PHFS) be updated?

Answer 3: The FAST Act requires FHWA to re-designate the PHFS every 5 years. Each re-designation is limited to a maximum 3 percent increase in the total mileage. The FHWA Office of Operations will develop a process for re-designation that, in accordance 23 U.S.C. 167(d), uses measurable data, fully considers the factors outlined in 23 U.S.C. 167(d)(2)(E), and provides an opportunity to State freight advisory committees to provide input.

Question 4: What data sources will the FHWA use to support the PHFS re-designations?

Answer 4: The process for re-designating the PHFS will include data that FHWA currently collects as well as new tools and data such those developed in accordance with 49 U.S.C. 70203, Transportation investment data and planning tools. To the maximum extent practicable, FHWA is required to use measurable data to assess the significance of goods movement, including consideration of points of origin, destinations, and linking components of the United States global and domestic supply chains. Data sources currently available or under development include the Freight Analysis Framework (FAF), truck weigh-in-motion data, truck flow data, HPMS data, and the National Performance Management Research Data Set (NPRMDS).

Question 5: Are there limitations on the use of NHFP funds based on the PHFS designation?

Answer 5: Yes. States with PHFS mileage greater than or equal to 2 percent of the total PHFS mileage in all States may only obligate funds for projects on the PHFS, the CRFC, and the CUFC. Remaining States with PHFS mileage of less than 2 percent may obligate funds for projects on any component of the NHFN, to include all Interstate routes (23 U.S.C.167(i)(3)). These latter, low-mileage States are: AL, AR, CO, CT, DE, DC, HI, ID, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, NE, NV, NH, NJ, ND, OK, OR, PR, RI, SC, SD, VT, WA, WV, WI, and WY. The list of all high and low mileage States can be found [here](#).

Question 6: How are critical rural freight corridors (CRFCs) and critical urban freight corridors (CUFCs) identified, designated, and certified?

Answer 6: States may identify, designate, and certify the CRFC routes using the requirements established in the FAST Act (23 U.S.C. 167(e)). In urbanized areas with populations of 500,000

or more individuals, the MPOs, in consultation with the State, may identify, designate, and certify the CUFC routes using the requirements established in the FAST Act (23 U.S.C. 167(f)). In urbanized areas with populations of 500,000 or less, States, in consultation with the MPO, may identify, designate, and certify the CUFC routes. These designations are not subject to a timeframe and may be provided to the FHWA Administrator on a rolling basis. Designations must include a certification that the designations meet the FAST Act requirements (23 U.S.C. 167(g)). Further guidance is being developed on this designation process.

Question 7: Can a non-PHFS Interstate System route be designated as a CRFC or CUFC?
(Added May 23, 2016)

Answer 7: Yes, the law does not prohibit the designation of a non-PHFS Interstate System route as a CRFC or CUFC. For a CRFC, the designated public road cannot be in an urbanized area and must meet one or more of the elements listed in 23 U.S.C. 167(e)(1). For a CUFC, the designated public road must be in an urbanized area and meet one or more of the elements listed in 23 U.S.C. 167(f)(3). Note that the designation of a non-PHFS Interstate System route as a CRFC or CUFC will count against the cap on mileage designation, which is established on a Statewide basis (23 U.S.C. 167(e)(2) and (f)(4)).

Question 8: Can a State obligate NHFP funding on CRFC and CUFC before designation and certification?

Answer 8: No. The CRFC and CUFC need to be designated and certified prior to using NHFP funds on these routes. 23 U.S.C. 167(i)(3).

Question 9: Are there mileage limitations on the CRFC and CUFC?

Answer 9: Yes. A State may designate as critical rural freight corridors a maximum of 150 miles of highway or 20 percent of the PHFS mileage in the State, whichever is greater. 23 U.S.C. 167(e)(2). For each State, a maximum of 75 miles of highway or 10 percent of the PHFS mileage in the State, whichever is greater, may be designated as a critical urban freight corridor. 23 U.S.C. 167(f)(4).

Question 10: Are there reporting requirements associated with the NHFP?

Answer 10: Yes. In accordance with 23 U.S.C. 167(h), by December 4, 2017, and biennially thereafter, the FHWA is required to prepare a Report to Congress that describes the conditions and performance of the NHFN work in the U.S.

Question 11: Is there information and data that States or other stakeholders can contribute to the Highway Freight Transportation Conditions and Performance reports required under 23 U.S.C. 167(h)?

Answer 11: Yes. While the FAST Act is not prescriptive on the contents of the reports, FHWA anticipates that data items covering roadway inventory, all vehicular traffic flow patterns, truck flow patterns, financial investment, commodity flow, congestion and bottleneck will be

foundational elements. The agency will issue additional guidance on report contents and associated data needs.

State Freight Plan

Question 1: Are there freight planning requirements associated with the NHFP?

Answer 1: Yes. Notwithstanding any other provision of law, effective beginning 2 years after the date of enactment of the FAST Act (December 4, 2015), a State may not obligate funds apportioned to the State under section 104(b)(5) unless the State has developed a State Freight Plan in accordance with section 70202 of title 49, United States Code. If the State Freight Plan is complete, except the multimodal components of that plan, the State may continue to obligate funds (see also Question 5 under Authorized Funding, Apportionment and Obligation).

Question 2: What are some of the major differences between a State Freight Plan developed pursuant to Section 1118 of MAP-21 and a State Freight Plan developed pursuant to Section 8001 of the FAST Act (49 U.S.C. 70202)?

Answer 2: Three additional content requirements for a FAST Act-compliant State Freight Plan are that it must include—

- When applicable, a listing of multimodal critical rural freight facilities and corridors designated within the State under 49 U.S.C. 70103 and critical rural and urban freight corridors designated within the State under 23 U.S.C. 167;
- Consideration of any significant congestion or delay caused by freight movements and any strategies to mitigate that congestion or delay; and
- A fiscally constrained freight investment plan that includes a list of priority projects and describes how funds made available to carry out 23 U.S.C. 167 would be invested and matched.

[49 U.S.C. 70202(b)-(c)]

Question 3: Can NHFP funds be used to develop or update a State Freight Plan?

Answer 3: Yes. In addition, Surface Transportation Block Grant and State Planning and Research funds may be used for these activities.

Question 4: Does the FAST Act require coordination of other plans and programs with the State Freight Plan?

Answer 4: Yes, the FAST Act requires coordination of other plans and programs with the State Freight Plan. For example, the FAST Act requires that the State Freight Plan describe how the State will improve the ability of the State to meet the national multimodal freight policy goals described in 49 U.S.C. 70101(b). A State Freight Plan may be developed separately from or incorporated into the statewide strategic long-range transportation plan required by 23 U.S.C. 135. Additionally, the FAST Act requires that programming and expenditure of NHFP funds to be consistent with the requirements of 23 U.S.C. 134 and 135, the Statewide Transportation Improvement Program (STIP) and Transportation Improvement Program (TIP).

Question 5: How often will the State need to update the State Freight Plan?

Answer 5: The FAST Act requires the State Freight Plan to be updated at least once every 5 years with a 5-year planning horizon. 49 U.S.C. 70202(d)-(e).

Question 6: How will FHWA approve a new or updated State Freight Plan?

Answer 6: Further guidance on this process is currently being developed.

Eligible Projects

Question 1: Section 1116(i)(5)(C) of the FAST Act includes a list of freight-related eligible projects and activities. Are these the only projects eligible for the NHFP funds?

Answer 1: No. In addition to projects on the list in 23 U.S.C. 167(i)(5)(C), a State may use apportioned NHFP funds for: carrying out diesel retrofit or alternative fuel projects under 23 U.S.C 149 for class 8 vehicles; and the costs associated with conducting analyses and data collection related to the NHFP, developing and updating performance targets, and reporting to the FHWA Administrator to comply with the freight performance targets established pursuant to 23 U.S.C. 150. [23 U.S.C 167(i)(6)]

Question 2: Can NHFP funds be used for multimodal freight projects?

Answer 2: Yes, but these projects are capped at 10 percent for each fiscal year (see also Question 4 under **Authorized Funding, Apportionment and Obligation**). A State may obligate not more than 10 percent of the total NHFP apportionment for freight intermodal or freight rail projects, including projects within the boundaries of public or private freight rail or water facilities (including ports), and that provide surface transportation infrastructure necessary to facilitate direct intermodal interchange, transfer, and access into or out of the facility. [23 U.S.C. 167(i)(5)(B)]

Question 3: Who can I contact with specific questions related to NHFP eligibility?

Answer 3: Specific NHFP eligibility questions should be directed to the FHWA Division Office in each State. A list of FHWA Division offices is available at www.fhwa.dot.gov/field.html.

Question 4: What freight intermodal or freight rail projects are eligible for NHFP funds? (Added May 12, 2016)

Answer 4: 23 U.S.C. 167(i)(5)(B) provides States the broad flexibility to fund a freight intermodal or freight rail project based on whether the project will contribute to the efficient movement of freight on the National Highway Freight Network (NHFN). Freight intermodal or freight rail projects can include projects within the boundaries of public or private freight rail or water facilities (including ports) that provide surface transportation infrastructure necessary to facilitate direct intermodal interchange, transfer, and access into or out of the facility. This

flexibility provides a wide range of possibilities. Guidelines for assessing eligibility of freight intermodal and freight rail projects include:

- *Determining whether the project contributes to the efficient movement of freight on the NHFN (23 U.S.C. 167).* Benefit to highway-based freight (i.e., truck) performance on the NHFN could include reduced congestion, improved throughput or reliability, or freeing up truck parking by reducing truck demand on the NHFN.
- *Determining whether the project is a surface transportation infrastructure investment.* Surface transportation infrastructure can include rail and road surface facilities (i.e., road beds and surfaces or rail beds and tracks), piers, docks, quays, berths, roll-on/roll-off ramps, and wharves (including rails and roads on these structures). Seawall construction and harbor dredging associated with berth modifications are not generally regarded as surface transportation infrastructure.
- *If within the boundary of a private or public rail or water facility, determining whether the project is necessary to facilitate direct intermodal interchange, transfer, and access into and out of a port terminal.* Intermodal freight transport involves the transportation of freight in an intermodal container or vehicle, using multiple modes of transportation (rail, ship, and truck), without any handling of the freight itself when changing modes. Thus, projects necessary to facilitate direct intermodal transfer and exchange are those that facilitate intermodal container operations or transfer and exchange of freight between multiple modes. This can include cargo handling equipment, such as cranes, that enable direct intermodal transfer and exchange or projects that connect transportation facilities to other modes of transportation (e.g., intermodal facilities which will allow truck trailers and freight containers to be loaded onto railroad cars).
- Other project considerations include:
 - The project must be identified in a State's fiscally constrained freight investment plan, which is part of a State Freight Plan required by 49 U.S.C. 70202. (23 U.S.C. 167(i)(5)). Such a State Freight Plan is required as a condition to obligate funding after December 4, 2017. (23 U.S.C. 167(i)(4)).
 - The project must be consistent with the planning requirements of sections 134 and 135 of title 23, United States Code. (23 U.S.C. 167(i)(7)).
 - The project must be treated as if the project were on a Federal-aid highway (23 U.S.C. 167(l)), which means that all applicable Federal requirements, as well as applicable State laws, regulations, and policies will apply to the project. This includes compliance with the Davis Bacon requirements (23 U.S.C. 113), the National Environmental Protection Act (NEPA), acquisition of right-of-way, and contract administration.

State Freight Plans are critical tools for the States to use in prioritizing freight transportation investments. Within the State Freight Plan, a freight investment plan must include a list of priority projects and describe how funds made available to carry out 23 U.S.C. 167 would be invested and matched by other funding sources. (49 U.S.C. 70202(b)(9)).

Specific NHFP eligibility questions should be directed to the FHWA Division Office in each State. A list of FHWA Division offices is available at www.fhwa.dot.gov/field.html.

Performance Management

Question 1: How does the FAST Act performance target requirement for freight change the MAP-21 requirements?

Answer 1: The FAST Act requires States to report on several aspects of their freight activities when States are determined by the Administrator as not making significant progress to improve freight movement on Interstates as required by MAP-21. 23 U.S.C. 167(j). MAP-21 Freight Performance measures are currently in the rulemaking process. When this information is public, details may be found [here](#). FHWA will include the FAST requirement in the MAP-21 rulemaking. The System Performance measures rule will include opportunity for public comment. For more information on MAP-21 and FAST rulemaking, see <https://www.fhwa.dot.gov/tpm/>.

Question 2: What resources are available for freight analysis and freight planning?

Answer 2: FHWA has numerous resources to support States and MPOs in freight analysis and performance measurement and freight planning. In addition, costs associated with conducting analyses and data collection related to the NHFP; developing and updating performance targets related carrying out the NHFP; and reporting to the FHWA Administrator to comply with the freight performance target under 23 U.S.C 150 are an eligible use of NHFP funds. [23 U.S.C 167(i)(6)]

- For resources and approaches to freight measurement, see: http://ops.fhwa.dot.gov/Freight/freight_analysis/perform_meas/index.htm.
- FHWA makes a national dataset of freight, passenger and all traffic travel times available free to States and MPOs to support their freight programs. For more information, see: http://ops.fhwa.dot.gov/Freight/freight_analysis/perform_meas/index.htm#data.
- For planning resources, see http://www.fhwa.dot.gov/planning/freight_planning/.
- For Freight demand (commodity) flow information, please visit Freight Analysis Framework at: http://www.ops.fhwa.dot.gov/freight/freight_analysis/faf/index.htm.

Transition

Question 1: When do the new provisions take effect? Can we start implementation now?

Answer 1: The effective date for most highway provisions in the FAST Act, both funding and changes to policy, is October 1, 2015. [FAST Act § 1003] Questions regarding implementation issues not covered in this memo or specific to a State should be directed to the FHWA Division office in your State. A list of FHWA Division offices is available at www.fhwa.dot.gov/field.html.

Question 2: Since the NHFP is new, can States roll funds from FY16 to FY17?

Answer 2: Amounts made available for the NHFP may be obligated by a recipient in the fiscal year they are received or in the 3 fiscal years that follow. Any amounts not obligated by the end of that period will lapse. [23 U.S.C. 118]

Question 3: How does the repeal of MAP-21 section 1116 (Prioritization of Projects to Improve Freight Movement) which allowed for an increased Federal share for freight projects affect freight projects in the pipeline?

Answer 3: Freight projects authorized for the increased Federal share prior to the FAST Act's effective date will continue under the same terms and conditions provided in MAP-21 section 1116.