



A guide to understanding the Federal-aid Highway Program, authorizing legislation and distribution of federal-aid funds

The Federal-Aid Highway Program (FAHP), administered by the Federal Highway Administration (FHWA), provides federal funding for surface transportation programs and eligible projects on highways. Financing the FAHP requires congressional authorization in the form of a statutory provision known as authorizing legislation. The Moving Ahead for Progress in the 21st Century Act (MAP-21) is the current authorizing legislation for the FAHP.

The MAP-21 Act replaces SAFETEA-LU, which was passed in 2005, expired in 2009 and was extended 10 times until MAP-21 was passed into law in 2012. The MAP-21 Act repeals some provisions of SAFETEA-LU, consolidates some, and modifies others. The MAP-21 Act requires a focus on performance and accountability; its performance system has two stages. First, the U.S. Secretary of Transportation must develop uniform ways to measure performance on the National Highway System (NHS). Second, states must set specific, quantifiable targets for the new performance measures and report on that performance. Rule making is underway at the federal level to establish performance measures.

The MAP-21 Act funds are apportioned (by percent) to the main (core) programs including National Highway Performance (NHPP), Surface Transportation (STP), Congestion Mitigation and Air Quality (CMAQ), Highway Safety Improvement (HSIP), and Metropolitan Planning (PL).

Under MAP-21, specific dollar amounts are also set aside for Transportation Alternatives (TAP), State Planning and Research (SPR) and Rail-Highway Crossings (RHC). The FHWA distributes funding apportionments and assigns obligation authority for

A new approach

The MAP-21 Act has a new approach to core formula program funding than previous legislation. This new approach and the corresponding performance penalties, are the focus of this folio. Washington state apportionments and penalties are calculated using FFY2014 numbers for illustration purposes. No penalties have been assessed, the penalty examples shown in this folio are for demonstration purposes only.

these programs annually to all fifty states. The states have some flexibility to transfer funds to other programs.

Apportionments are typically available for obligation up to four years after they are distributed. Obligation Authority (OA) defines the amount of apportioned funds that may be obligated, or authorized to eligible projects in a federal fiscal year (October through September). Unobligated apportionments carry over to the next year for up to four years, or until expiration. For example, if the total apportionment for federal fiscal year (FFY) 2014 is \$650,000,000 and Washington state obligates less than the full amount, the difference between the apportionment and obligation will carry over to the following year and be added to the new apportionment.

Washington state has had a long history of collaborating with our partners to establish an agreement on the distribution of federal highway formula funds to the state and local governments. With the passage of MAP-21, the Governor's Transportation Policy Advisor led a steering committee with representation from the a variety of stakeholders including the Legislature, transportation industry, local officials and WSDOT to determine the MAP 21 distributions.

The current agreement of annual statewide apportionment under MAP-21 is split, with 66 percent allocated to WSDOT and 34 percent allocated to local jurisdictions (locals). The funding is first set aside for Recreational Trails, SPR and MPO, then distributed by predetermined percentages between NHPP, CMAQ (100% local), and HSIP; STP funding is then split between WSDOT and locals to achieve the overall 66/34 percent balance.

What about the penalties?

The word "penalty" conjures thoughts of punishment or unpleasant consequences for breaking a rule. When it comes to MAP-21, which focuses on performance, the "penalty" that is assessed for falling below the acceptable target involves shifting funds to focus on regaining acceptable levels of performance. While penalties may mean a loss of flexibility with regard to how a state spends its MAP-21 funds, the intent is to get back on target. Further, if we are already spending an amount greater than the penalty to achieve the desired result, there would be no additional penalty.

MAP-21 programs, statewide apportionments and set-asides

Core programs and their apportionments

National Highway Performance Program (NHPP)

The FHWA designates NHPP funds that may be used for transportation projects on the National Highway System. Eligible projects include roadway and bridge construction projects to improve infrastructure condition, safety, mobility, or freight movement toward the achievement of national performance goals.

- The Washington statewide apportionment for NHPP in FFY2014 was \$358,516,583. At WSDOT's discretion, up to 50 percent of NHPP funds may be transferred to other programs.

Surface Transportation Program (STP)

The STP provides funds that may be used for construction, rehabilitation, and improvement of highways; bridge and tunnel rehabilitation and replacement projects on public roads; construction of new bridges and tunnels on federal-aid highways; pedestrian and bicycle infrastructure, and transit projects. Federal-aid highways include the National Highway System, its Interstate System and all other public roads not classified as local roads or rural minor collectors.

- The Washington statewide apportionment for STP in FFY2014 was \$171,800,293. Fifty percent of a state's STP apportionment after set-asides is to be obligated to locals in proportion to their relative share of the state's population. At WSDOT's discretion, the remaining 50 percent may be obligated in any area of the state or transferred to other programs.

Congestion Mitigation and Air Quality Program (CMAQ)

The CMAQ program provides funds that may be used for projects that generate an emissions reduction in areas that do not meet the National Ambient Air Quality Standards (non-attainment areas), as well as former non-attainment areas that are now in compliance with standards (maintenance areas). The CMAQ program provides funding for projects and programs that help regions meet the requirements of the Clean Air Act through intermodal emissions reduction, alternate fuel use, improvement of traffic flow, and transit investment.

- The Washington statewide apportionment for CMAQ in FFY2014 was \$35,469,204. At WSDOT's discretion, up to 50 percent of CMAQ funds may be transferred to other programs.

Highway Safety Improvement Program (HSIP)

The HSIP provides funds that may be used for safety projects on public roads or publicly owned pathways or trails. Funds may be used for strategies, activities, and projects that address a highway safety problem to achieve significant reduction in traffic fatalities and serious injuries according to the state's Strategic Highway Safety Plan: Target Zero.

- The Washington statewide apportionment for HSIP in FFY2014 was \$37,140,499. At WSDOT's discretion, up to 50 percent of HSIP funds may be transferred to other programs.

Metropolitan Planning (PL)

The Metropolitan Planning program provides funding for transportation investments in metropolitan areas. Funds are distributed to Metropolitan Planning Organizations and may be used for transportation planning activities that meet the objectives of their Transportation Improvement Program, including route studies to determine road condition and capacity, identifying the types and volumes of vehicles using a given route, or predicting the level and location of future population, as well as employment and economic growth.

- The Washington statewide apportionment for PL in FFY2014 was \$6,960,373, which may not be transferred to other programs.

Set-asides from core programs

Transportation Alternatives Program (TAP)

The TAP program provides dollars that may be used to fund transportation alternatives projects (routes for non-drivers, community improvement projects, and environmental mitigation), safe routes to schools, and workforce development and training. The TAP is funded by setting aside an amount from NHPP, SP, CMAQ, HSIP and PL.

- The Washington statewide set-aside for TAP in FFY2014 was \$12,503,968. Fifty percent of a state's TAP apportionment is to be obligated to local areas in proportion to their relative shares of the state's population. At the WSDOT's discretion, the remaining 50 percent may be transferred to other programs.

State Planning and Research (SPR)

The SPR program provides funds that may be used for statewide planning and research activities. Eligible projects include development and implementation of management processes, studies of the economy and surface transportation system, research and training on transportation system engineering. The SPR program is funded by setting aside an amount from NHPP, STP, HSIP, and CMAQ.

- The Washington statewide set-aside for SPR in FFY2014 was \$12,862,895. The SPR funds may not be transferred to other programs.

Rail-Highway Crossings (RHC)

The RHC program provides funds for projects to reduce the number of fatalities, injuries and crashes at public crossings. Funds may be used to eliminate hazards of railway-highway crossings and record data about improvement programs. The RHC program is funded by setting aside an amount from HSIP.

- The Washington statewide set-aside for RHC in FFY2014 was \$4,063,343. The RHC funds may not be transferred to other programs.

MAP-21 flexible funds and performance management penalties

Federal-aid funds are distributed to ensure funding of critical transportation projects. States have varying needs for federal-aid programs; some programs are allowed to transfer up to 50 percent of that program's apportionment between programs (after set-asides and penalties). For example, a state may transfer NHPP funds to the STP program in order to obligate additional funding to projects on non-NHS roads. The transferred amount from NHPP must not reduce the amount set-aside for TAP, and must occur within the constraints of any penalties.

State DOTs and local agencies rely on this flexibility to optimize the impact of their Obligation Authority (OA) in areas where funding is most needed. Penalties may impact apportionments and limit the flexibility of transfers. Some penalties are based on amounts budgeted in FFY2009 for SAFETEA-LU programs that no longer exist or have been absorbed by MAP-21 programs. The chart below shows sample penalty calculations for pavement, bridge and safety based on FFY2014 apportionments. No penalties have been assessed, the calculations are shown for illustration purposes only.

The MAP-21 Act describes performance management targets related to these programs and proposes measurements that determine compliance with established targets. Penalties for noncompliance are designed to direct funds within programs and ensure that states improve transportation system performance in programmatic areas that are classified as deficient. If a state fails to meet performance targets or minimum condition levels of highway assets, penalties may impact apportionments. These funding-related penalties may constrain the obligation of funds in particular programs, potentially limiting the flexibility of transfers, or directly shifting funds by requiring the transfer of apportionment amounts between programs.

Performance management penalties included in the currently released Notices of Proposed Rule Making (NPRMs) refer to performance measures of pavement condition on the Interstate System, bridge condition on the National Highway System, and safety performance measures for all public roads. These penalties would impact the funding of three programs: National Highway Performance Program (NHPP), Surface Transportation Program (STP) and Highway Safety Improvement Program (HSIP). A summary of each penalty and its impact on federal-aid funding is described here and on page 4.

Safety Measures and Penalty

Performance Measure

- In order to avoid a penalty, states must meet or make significant progress toward achieving 50 percent of all established safety targets for traffic fatalities and serious traffic injuries on all public roads.

If the state has not met or made significant progress toward achieving the targets within two years of establishing them, the funding penalty will apply the following year.

Sample Washington state penalties: Safety

| Impacted federal-aid funding program: HSIP | |
|---|--|
| FFY2014 statewide apportionment | |
| \$37,140,499 | |
| FFY2014 sample penalty | |
| \$38,712,610 | |
| Penalty source | How penalty would be calculated |
| HSIP, FFY2013 | Rural Roads Target, HSIP: Obligate HSIP funds = \$38,712,610 (HSIP appropriation from previous year) |
| Impacted federal-aid funding program: HSIP for HRRR | |
| FFY2014 statewide apportionment | |
| \$1,572,286 | |
| FFY2014 sample penalty | |
| \$3,144,572 | |
| Penalty source | How penalty would be calculated |
| HSIP, FFY2009 | Safety Targets, HSIP: Obligate HSIP funds = \$3,144,572 (\$1,572,286 x 2) |

Data sources: FHWA National Performance Management Measures, HSIP, NHPP.
Note: no penalty has been assessed; for illustration purposes only.

States have an option to use additional measures to ascertain progress in urbanized and non-urbanized areas for each of the required measures. If optional measures are chosen, targets must be set and DOTs can be assessed penalties if they do not show progress. No penalties have been assessed to date in Washington state. The penalty samples shown in this folio are for illustration purposes only using source data from FHWA National Performance Management Measures, HSIP and NHPP. For target information, see the [Safety MAP-21 WSDOT Technical Folio](#).

The state must use OA equal to the HSIP apportionment for the prior year only for highway safety improvement projects under this section until the state has met or made significant progress toward achieving targets. (If a penalty had been assessed in Washington state in FFY2014, the obligated amount would have been \$38,712,610).

Special Rule for High Risk Rural Roads

- In order to avoid a penalty, states must not exceed the baseline target which will be established for the Rate of traffic fatalities per 100 million Vehicle Miles Traveled for rural roads.

If the traffic fatality rate increases consecutively during the most recent 2-year period for which data is available, the funding penalty will apply during the following year. Rural roads are classified as rural major and minor collectors and rural local roads.

Penalty (Impacted federal-aid funding program: HSIP)

The state must obligate in the next fiscal year for high risk rural roads an amount at least equal to 200 percent of its FFY2009 high risk rural road funds. (If a penalty had been assessed in Washington state in FFY2014, the obligated amount would have been \$3,144,572)

Special Rule for Older Drivers

- In order to avoid a penalty, states must not exceed the baseline target which will be established for the number of traffic fatalities and serious injuries per capita for drivers and pedestrians age 65 and older in a state.

MAP-21 flexible funds and performance management penalties

Continued from page 3

If the rate increases during the most recent 2-year period for which data is available, that state shall be required to include, as part of the subsequent strategic highway safety plan of the state, strategies to address increases in those rates. There is no funding penalty for the Special Rule for Older Drivers.

A safety penalty obligates HSIP funds equal to the previous year's apportionment (in FFY2013 that would have been \$38,712,610). If a High Risk Rural Road (HRRR) penalty is assessed, the total obligation increases by 200 percent of the FFY2009 HRRR set-aside (in FFY2014 that would have been \$3,144,572). Note: A safety penalty may cause total HSIP obligations to exceed the current annual apportionment. Funds from past years' apportionments, or transfers from other programs may be used to account for the difference.

Pavement Condition Measure and Penalty Performance Measure

- In order to avoid a penalty, states must meet the following minimum condition level: Interstate pavement condition not to exceed 5 percent in poor condition.

If a state does not meet the minimum condition for two consecutive years, the funding penalty will apply during the following fiscal year and each year thereafter until in compliance.

Sample Washington state penalty: Pavement

| Impacted federal-aid funding program: NHPP and STP | |
|--|---|
| FFY2014 statewide apportionment NHPP | \$358,516,583 |
| FFY2014 statewide apportionment STP | \$171,800,293 |
| FFY2014 sample penalty NHPP | \$103,138,557 |
| Additional FFY2014 sample penalty STP | \$10,111,623 |
| Penalty source | How penalty would be calculated |
| Interstate Maintenance, FFY2009 | Pavement Condition, NHPP: Obligate NHPP funds = \$103,138,557 $(101,116,232 \times (1+0.02)^{FF-2013})$ Transfer STP funds to NHPP = \$10,111,623 $(101,116,232 \times 0.10)$ |

Data sources: FHWA National Performance Management Measures, HSIP, NHPP.

Note: no penalty has been assessed; for illustration purposes only. The Interstate Maintenance program no longer exists; it has been absorbed by the NHPP.

From the apportionment for the National Highway Performance Program (NHPP), the state must obligate an amount equal to the apportionment for the Interstate Maintenance program in fiscal year 2009, increased 2 percent for each year after fiscal year 2013, for the purposes described in the NHPP. (If a penalty had been assessed in Washington state in FFY2014, the obligated amount would have been \$103,138,557).

In addition, an amount equal to 10 percent of the Interstate Maintenance program in fiscal year 2009 will be transferred from STP funds to the apportionment for the NHPP. (If a penalty had been assessed in Washington state in FFY2014, the obligated amount would have been \$10,111,623). The Interstate Maintenance program no longer exists; it has been absorbed by the NHPP. The STP program is impacted in this case because as penalty funds are solely dedicated toward NHS roadways, flexibility is lost for funding non-NHS roads.

Bridge Condition Measure and Penalty Performance Measure

- In order to avoid a penalty, states must meet this minimum condition level: National Highway System (NHS) bridges not to exceed 10 percent structurally deficient, by deck area.

If a state does not meet the minimum condition for three consecutive years, a funding penalty will apply during the following fiscal year and each year thereafter until in compliance.

Sample Washington state penalty: Bridges

| Impacted federal-aid funding program: NHPP | |
|--|---|
| FFY2014 statewide apportionment NHPP | \$358,516,583 |
| FFY2014 sample penalty NHPP | \$77,003,753 |
| Penalty source | How penalty would be calculated |
| Highway Bridge Program, FFY2009 | Bridge Condition, NHPP: Obligate NHPP funds = \$77,993,753 $(155,987,505 \times 0.50)$ |

Data sources: FHWA National Performance Management Measures, HSIP, NHPP.

Note: no penalty has been assessed; for illustration purposes only.

The state must obligate and set aside an amount to 50 percent of the apportionment for the Highway Bridge Program in fiscal year 2009, from the NHPP apportionment, only for projects on NHS bridges. (If a penalty had been assessed in Washington state in FFY2014, the obligated amount would have been \$77,993,753).

For more information

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WSDOT MAP-21 performance web page:

<http://wsdot.wa.gov/accountability/MAP-21>

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