

Special Management Review Guidelines

Purpose

A Special Management Review (SMR) is conducted to assist a State improve its performance in a specific program area by examining management and operational practices. Specific program area recommendations are offered for the efficient administration and effective planning, programming, implementation and evaluation of activities that have potential for saving lives.

The National Highway Traffic Safety Administration (NHTSA) originally developed guidelines for conducting Special Management Reviews in response to findings in the April 2003 GAO report entitled, *Better Guidance Could Improve Oversight of State Highway Safety Programs*. NHTSA was responding to a critical finding that recommended, "NHTSA provide more specific guidance to its regional offices on when it is appropriate to use management reviews and improvement plans to assist States with their highway safety programs." Subsequently, in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, enacted in 2005, Congress directed NHTSA to conduct program improvement reviews of a State program that does not make substantial progress over a 3-year period.

Special Management Reviews are the possible next step in a process that first analyzes FARS data and State certified seat belt surveys to determine if States are making progress in key program areas of their highway safety program. The Special Management Review may lead to the joint development of a Performance Enhancement Plan (PEP).

Following are guidelines that outline the process to be followed for conducting Special Management Reviews.

Authority

23 USC Chapter 4 § 402 - Highway Safety Programs

23 USC Chapter 4 § 412(c) – State Program Review

"The Secretary shall –

- (1) conduct a program improvement review of a highway safety program under this chapter of a State that does not make substantial progress over a 3-year period in meeting its priority program goals; and*
- (2) provide technical assistance and safety program requirements to be incorporated in the State highway safety program for any goal not achieved."*

49 CFR § 18 - Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

23 CFR § 1200.25 Improvement Plan

"If a review of the Annual Report required under § 1200.33 of this part or of other relevant information indicates little or no progress toward meeting State

goals, the Approving Official and State officials will jointly develop an improvement plan. This plan will detail strategies, program activities, and funding targets to meet the defined goals.”

NOTE: Improvement Plans will hereinafter be referred to as Performance Enhancement Plans

Scope

Absent extenuating circumstances, the review period will not exceed the current fiscal year and the previous two fiscal years.

Definitions

Special Management Review (SMR) - A review of a State Highway Safety Office's (SHSO's) management and operational practices in a specific program area to determine other relevant information related to program performance and progress. SMRs are preceded by analyses of the most current and best data available from the Fatality Analysis and Reporting System (FARS), mileage death rates, alcohol death rates and seat belt surveys. SMRs are scheduled as a result of a State's performance consistently below the national average and performance progress less than half of that recorded by the Nation as a whole.

Performance Enhancement Plan (PEP) - (reference 23 CFR 1200.25 Improvement Plan) - A plan developed following a SMR in response to a State's failure to meet performance goals, substandard performance, or failure to show improvement toward priority safety program goals over a three-year period. The Performance Enhancement Plan is developed jointly between the Regional Office (RO) and the State, and details strategies for implementation of the required and mutually agreed upon recommended actions that have the greatest potential for improving performance, establishes target dates for completion of each required and recommended action, and contains a status element for indicating progress of each required and recommended action based upon periodic reporting by the State.

Finding - A determination that one or more areas of review is in non-compliance with Federal and/or State laws, regulations, rules, and/or federal written policy and/or guidelines.

Required Action - A specific corrective action based on Federal and/or State laws, regulations, rules, and/or federal written policy and/or guidelines which must be implemented by the State to resolve a non-compliance issue (Finding). The status of the open Required Actions will be documented in the Performance Enhancement Plan (PEP).

Program Management Consideration - A determination that one or more areas of program review may be in need of additional progress or improvement, and if improved, have the potential to enhance the overall efficiency and/or effectiveness of the State's

efforts in the highway safety program area reviewed.

Recommended Action - Recommended approach based on a program management consideration which has the potential to enhance program efficiency and effectiveness. Since recommendations by definition do not concern non-compliance issues but rather fall into the good business practice realm, the State would be obligated to implement only those proposed remedies mutually agreed upon with the RO.

Strength – A recognition of strong efforts, use of best practices or successful implementation of a countermeasure known to be effective.

Process

1. In the first quarter of each fiscal year, NHTSA reviews each State's performance, using FARS data and the State's certified seat belt use surveys, for a base year and the three most recent years. If a State has no certified seat belt use survey for a given year of interest, NHTSA will statistically impute an estimated use rate using FARS data.
2. NHTSA compares each State's performance during the three most recent years with the national average performance (based on FARS and the VMT weighted average of all state seat belt use rates) for those same three years.
3. NHTSA determines how much the State's performance improved during the three consecutive years (i.e., improved beyond the performance recorded during the base year immediately prior to the three year span). NHTSA compares the State's performance improvement with the national average performance improvement over the same three years.
4. NHTSA identifies as candidates for Special Management Review all States that:
 - a. Performed worse than the national average in each of the three years, **AND**
 - b. Registered less than half as much improvement over the three consecutive years (compared to the base year) as did the nation as a whole.
5. A State that has had a SMR final report issued within the previous two fiscal years will be exempt from conducting a subsequent SMR of the same program area in the two succeeding years; such exemption shall not apply in the third year following the issuance of a SMR final report.
6. Mitigating factors may also be taken into consideration. For example, NHTSA will examine recent programming and legislative changes and other factors such as the enactment of a primary seat belt law or other relevant laws, or unusual political, economic and societal changes, to determine if a Special

Management Review is warranted. Based upon mitigating factors, the Regional Administrator (RA) may recommend in writing to the Associate Administrator for Regional Operations and Program Delivery (ROPD) that the SMR be exempted. The Associate Administrator (AA) for ROPD will consider the RA's recommendation, and provide the RA a written decision as to whether the SMR will be conducted.

If data, program and legislative reviews indicate a SMR is needed, the Regional Administrator provides advance notice to the Governor's Representative (GR) that a letter is forthcoming concerning the State's performance. The Regional Administrator notifies the GR in writing that data from the past several years identify the State as a candidate for a Special Management Review and that the Region plans to conduct a SMR in the State during the current fiscal year.

Regional Office Actions

NHTSA Regional staff will conduct a preliminary conference call or site visit with the appropriate State Highway Safety Office (SHSO) personnel, which may include the GR, Coordinator, and Highway Safety Director to:

1. Review and discuss performance data.
2. Provide the State at least 60 to 90-day advance notice prior to the initiation of an on-site Special Management Review.
3. Negotiate with the State the dates for the on-site visit portion of the SMR.
4. For the initial site visit a maximum of five-days should be scheduled. If additional on-site time is needed, another visit will be scheduled.
5. Identify the review team and a team leader. The team leader shall be from the Region responsible for providing management oversight to the State.
6. Notify the State in writing of the on-site dates and other details regarding the upcoming SMR, including:
 - a. Provide copy of program area review questionnaire (see attached questionnaires) and a Project Review Checklist, requesting that the SHSO provide responses to the questionnaire and return it to the Regional Office (RO) prior to the on-site visit,
 - b. Establish that the state and RO should mutually agree upon the

number and organization representatives to be interviewed during the on-site visit to ensure that the interviewees directly relate to the purpose of the SMR and are relevant to the issues that are to be discussed and;

- c. Identify and request other materials/documents that the SHSO should provide the RO prior to the SMR on-site visit.

Conduct On-Site portion of SMR

1. Entrance Conference

- Conduct entrance conference with selected SHSO staff and partners.
- Reaffirm the collaborative nature of this process.

2. Conduct the Review

- Complete and address all the items contained in the "Program Area Questionnaire" by reviewing documents and interviewing highway safety leaders, SHSO staff, partners, and subgrantee/project personnel.
- Document each interview.
- Collect or scan copies of all relevant and necessary documents.
- Review a sample of project files relevant to the subject program area and document the results in the report.
 - Project File Selection will be based on:
 - larger projects that have the potential to impact the program,
 - projects being funded which may not be based on best practices,
 - projects in geographic areas where program performance has been weak, and
 - sample of projects to provide breadth and coverage of the program area.
- Develop an informal summary/overview of observations to use during the Exit Briefing.
- Determine the necessity for additional on-site visit(s).

3. Exit Briefing

- Conduct a briefing with SHSO management and staff.
- Present the strengths (positive areas) in the state program efforts.
- Present a preliminary assessment of the program area and any preliminary findings, required actions, program management considerations and recommended actions, emphasizing that they are preliminary in nature because documents are still being examined and information refined during the post on-site period.
- Advise the State that additional information or documents may be requested at later date as the RO develops the draft report.
- Discuss the SMR Report development process:

- The goal for completion of the draft report is 45 days. However, the time period from the on-site visit until the report transmittal will be dependent upon the complexity of issues and necessity for additional information.
- The State will have 45 days to respond with technical corrections and any disagreements with the SMR Findings, Required Actions, Program Management Considerations and Recommended Actions.
- Following receipt of the State's response, the RO will make appropriate revisions and within 15 days send a draft-final report to the State.
- The State will have 15 days to review the draft-final report and document in writing to the Regional Office any agreed upon changes that may have been missed or any remaining disagreements. This response will be included in the final report issued within 10 days from receipt of the State's response.

Draft Report

1. Prepare a draft report based on the interviews conducted, notes taken, and documents gathered during the review process. All review notes are maintained on file. The report headings and format will follow the prescribed model.
2. Draft Report will address the various sections of the questionnaire and include Findings, Required Actions, Program Management Considerations, Recommended Actions, as well as any Strengths of the program and examples of best practices. The document review protocols and selection criteria for vouchers and project files will be detailed in the SMR report.
3. Following an internal NHTSA consistency review, a draft report will be transmitted to appropriate SHSO personnel within 45 days of the exit briefing or any additional on-site visit (the time period from the on-site visit until the report transmittal will be dependent upon the complexity of issues and necessity for additional information). The SHSO will review the report and respond to not only technical inaccuracies, but also any disagreements with the SMR Findings, Required Actions, Program Management Considerations, and Recommended Actions.
4. Also, the SHSO will list in the response to the draft SMR report those Recommended Action(s) which have been accepted for implementation and the proposed target date for completion. This response will be due within 45 days of receipt of the draft. In particular, additional supporting documents may be provided by the State.
5. In those cases where the SHSO does not accept a Recommended Action for implementation, the rationale would be stated concisely in writing and forwarded to the Regional Office for consideration during negotiations on the development of the PEP.

6. Recommended Actions accepted for implementation and those rejected will be included in the final SMR Report unless additional information renders a recommended action invalid. Recommended Actions considered closed would be so noted.
7. The SHSO may request that the SHSO's written response to the SMR draft be discussed verbally at a follow up meeting with the Regional Office to attempt to resolve any identified inaccuracies or areas of disagreement.

Draft - Final Report

1. Based on the information provided, and discussions between the State and the RO, appropriate changes will be made. A draft-final report will be issued by the RO within 15 days of receipt of the State's written response to the SMR draft report.
2. This draft-final report will contain any appropriate, justified and negotiated changes. Based on the State's submission, Findings, Program Management Considerations, Required Actions and/or Recommended Actions may be added/deleted/changed.
3. The State will be given 15 days to review the draft-final report and document any agreed upon changes that might have been missed or any remaining areas of disagreement with their explanation. The SHSO response will become part of the final SMR report.

Final Report

1. Within 10 days of receipt of the SHSO written response, if any, the SMR Final Report will be transmitted officially from the NHTSA Regional Administrator to the State Governor's Representative and the AA of ROPD.
2. The SHSO may appeal the final SMR report to the AA for ROPD (see below).

Performance Enhancement Plan (PEP)

1. Following the issuance of the final SMR report, the State and RO will jointly develop a PEP to describe the strategies for implementation of the SMR required and the mutually agreed upon recommended actions and any other actions, along with agreed target dates for completion. The PEP will include proposed actions by the State, assistance from NHTSA, and status of progress in implementation. If the State has developed or is in process of developing an action plan for effecting program improvement, the State's plan will be considered in the development of the PEP (see attached PEP template).
2. The SHSO will designate staff to work with the RO to jointly develop the PEP.

3. NHTSA will share known successful best practices and programs with the States.
4. The PEP strategies should be included in the Highway Safety Plan (HSP).
5. The SHSO and the RO will sign the agreed upon PEP.

Follow-up and Evaluation

1. RO will monitor the implementation of the PEP at least every six months.
2. PEP may require periodic status reports from the SHSO.
3. The RO will provide the technical assistance needed by the State to implement the identified strategies.
4. Where appropriate, evaluation plans will be written into the PEP.
5. The PEP will be considered closed when the plan's activities are completed, and the RO has sent a letter to the GR noting the official closure of the PEP.

Frequency of SMRs

When a SMR final report has previously been issued within the previous two fiscal years, a subsequent SMR will not be considered until NHTSA has had the opportunity to determine the impact the PEP or a State action plan accepted by the RO has had on improving the performance measure under review. Three or more years after issuance of a SMR final report, if the data identifies the State for a SMR in the same program area, NHTSA will consider conducting a second SMR or working with the State to jointly modify an existing PEP or State action plan as necessary to effect positive performance.

Appeals

As provided in 23 CFR § 1200.27, a review of any written decision by a Regional Administrator (RA) may be obtained by submitting a written appeal of such decision, signed by the Governor's Representative for Highway Safety to the AA, through the RA.

1. The appeal will be forwarded promptly to the NHTSA Associate Administrator for Regional Operations and Program Delivery.
2. The decision of the NHTSA Associate Administrator will be transmitted to the Governor's Representative for Highway Safety through the RA.

| SMR Timeline in Brief | Days |
|---|-------------|
| 1. ROPD informs RO of States identified as SMR candidates | 0 |
| 2. RO notifies GR that State has been identified for a SMR documents | 15 |
| 3. RO confirms date of SMR on-site visit (confirmation letter to GR) | 15 |
| 4. SHSO prepares and submits documents prior to on-site visit | 60 |
| 5. RO document review and preparation | concurrent |
| 6. On-site visit at SHSO | 5 |
| 7. SMR draft report prepared, reviewed internally and submitted to SHSO | 45 |
| 8. SHSO response - factual corrections and omissions | 45 |
| 10.RO completes draft-final report | 15 |
| 11.SHSO SMR official response for inclusion in the final report | 15 |
| 12.Transmittal of final SMR report | 10 |
| Total elapsed days from Notification Letter to Final Report | 225 |
| Estimated elapsed time from Exit Briefing to Final Report | 130 |

Note:

- Specified days are targets. Actual time between steps will vary. The need for more or less time will depend on the complexity of the SMR and information available at the time of the on-site and revealed during the review.
- Open, candid and frequent dialog throughout the SMR process from preparation to Final Report and PEP is necessary to ensure mutual understanding and that complete information is considered.

HOW THE SMR CANDIDATE IDENTIFICATION PROCESS WORKS

Illustration Number 1: Seat Belts

Conversion Rate: A rational measure for determining improvement in seat belt use by computing a rate for reduction in the number of non-seat belt users. For example, if a State has a seat belt use rate of 70 percent, it has a non-use rate of 30 percent (100 percent - 70 percent = 30 percent).

If the State increased its use rate from 70 percent to 73 percent, it would have a conversion rate of 10 percent. (i.e., $(73-70 = 3)$ $(100-70 = 30)$ $3/30 = 10\%$)

Ten percent of “non-users” were converted to “users” when the rate increased from 70 percent to 73 percent.

Performance measure: Seat belt use rate from observational surveys compliant with 23 CFR Part 1340 or imputations from FARS data where necessary.

Improvement measure: Conversion rate, from the year prior to the 3-year span until the end of the 3-year span.

Most recent years for which data are available for this example: 2003, 2004, 2005, 2006

National Average Performance: The national average seat belt use rate based on the VMT (100 Million Vehicle Miles Traveled) weighted average of all State seat belt use rates: 79.8% (2003), 81.5% (2004), 83.3% (2005); 84.1% (2006)

National Average Improvement: 79.8% to 84.1%, a non-user conversion rate of 21.3% (i.e., $(84.1 - 79.8 = 4.3)$ $(100 - 84.1 = 15.9)$ $4.3/15.9 = 21.3\%$)

Question #1: Was the State's seat belt use rate less than the national average of 81.5% in 2004 and less than 83.3% in 2005 and less than 84.1% in 2006?

Question #2: Was the State's non-user conversion rate from 2003 to 2006 less than 13.7% (one-half of the national conversion rate of 27.4%)?

Only if BOTH questions are answered affirmatively will the State be identified for a Special Management Review of its seat belt program.

Illustration Number 2: Impaired Driving

Performance measure: Alcohol-impaired driving fatality rate per 100 million VMT (fatal crashes that involve at least one driver or a motorcycle rider (operator) with a blood alcohol concentration (BAC) of 0.08 grams per deciliter or higher; FARS).

Improvement measure: Percent decrease in the alcohol-impaired fatality rate, from the year prior to the 3-year span until the end of the 3-year span.

Most recent years for which data are available for this example: 2003, 2004, 2005, and 2006

National* average performance: 0.45 (2003), 0.44 (2004), 0.45 (2005), 0.45 (2006)

National* average improvement: 0.45 to 0.45, decrease rate of **-0.00%****
(i.e., $(0.45 - 0.45 = -.00) (-.00 \text{ (reduction)} / 0.45 \text{ (base)} = \mathbf{-0.00 \%}^{**})$)

Question #1: Was the State's alcohol-impaired fatality rate more than 0.44 in 2004 and more than 0.45 in 2005 and more than 0.45 in 2006?

Question #2: Did the State's alcohol-impaired fatality rate decrease from 2003 to 2006 less than **-0.00%** (**one-half** of the national alcohol-related fatality rate decrease of **-0.00%**)?

Only if BOTH questions are answered affirmatively will the State be identified for a Special Management Review of its impaired driving program.

*National averages include Puerto Rico. National averages for fatality rates published by NCSA exclude Puerto Rico.

** Fatality rates shown by year are rounded to two decimal points. Percent changes (decrease or increase) in fatality rates are calculated from unrounded data. Therefore, calculating the change using the rates in the year columns will result in a different percentage than noted as the change.