



NEW YORK STATE
ASSOCIATION OF
METROPOLITAN PLANNING ORGANIZATIONS

DOCKET # FHWA-2013-0020
RIN 2125-AF49

COMMENTS TO THE DOCKET
23 CFR PART 490
NATIONAL PERFORMANCE MANAGEMENT MEASURES; HIGHWAY SAFETY IMPROVEMENT PROGRAM
PROPOSED RULE

The New York State Association of Metropolitan Planning Organizations (NYSAMPO) fully supports the concept of performance based planning and programming established in MAP-21. We generally agree that orienting the metropolitan and statewide planning processes to measure the outcomes of investments in the transportation system may result in more effective project choices.

§490.205 Definitions

No comments on the proposed definitions in the rule.

§490.207 National Performance Measures for the Highway Safety Improvement Program

- a) Agree with the four proposed performance measures, with this caveat: pedestrian crashes, serious injuries, and fatalities are a significant driver of New York's overall safety performance. The highest occurrence is in New York City, which is taking extraordinary steps to address the issue. For the rate-based measures, VMT is the wrong denominator for non-motorized crashes. Pedestrian and bicycle crash rates are more clearly related to exposure, which is likely increasing as we encourage to people to walk and bike rather than drive when possible. However, we also realize that HPMS is universally available, and that a federal requirement for pedestrian and bicycle counts for this performance measure would be inappropriate. We would support further investigation into the best way to measure the safety performance of non-motorized modes.
- b) Support the 5-year rolling average as the basis for each performance measure, since it smooths out the random nature of crash occurrence and provides a more statistically sound measure. We are concerned, however, that this approach creates a long "look back" period at actions already taken, while the purpose of MAP-21 PBPP is to influence investment choices by measuring the outcome of current projects. We suggest FHWA evaluate the efficacy of a 3-year rolling average. Of greater concern is the data lag inherent in FARS and HPMS data, which essentially means that the performance analysis will always be looking back rather than directly evaluating the overall performance of the safety investment program.
- c) Support the requirement to use MMUCC within 18 months, noting that New York is MMUCC compliant.
- d) While this section is only a recommended action, we are concerned at the potential level of effort required to coordinate crash records with medical records for injury outcomes. We understand that actual patient outcome in terms of fatality or serious injury is not always recorded accurately at the crash scene by the law enforcement officer, because the patient's condition may either deteriorate, or present as less serious. NHTSA's Crash Outcome Data Evaluation System (CODES) effort provides some insights.

§490.209 Establishment of Performance Targets

- a) Agree in general with the proposal that state targets be uniform across the NHTSA required Highway Safety Plan and FHWA requires Strategic Highway Safety Plan. We suggest that the Rule offer some guidance to states on how they should set their targets, given the natural tension between having targets that are easily achievable and those that reflect documented level of need. FHWA must recognize that target setting necessarily will involve trade-offs across the MAP-21 national goals.
- b) Support giving states the flexibility to establish separate targets for urban and non-urbanized areas of the state, since safety profiles are very different in those locations.
- c) Agree that MPOs should establish their own performance targets, but FHWA must recognize that HSIP funds may be programmed primarily by the state DOT. Performance targets may encourage MPOs to include safety elements in STP funded projects. Allowing MPOs to be flexible in how they choose to frame their targets as either contributing to state target or being MPO specific is positive. MPO members will consider their own needs and priorities in terms of trade-offs and targets.
Note previously stated concern about applicability of HSIP to all public roads versus Federal-aid roads which limits STP eligibility.
- d) “The State DOT and relevant MPOs shall coordinate...” What does FHWA mean by a “relevant” MPO?

§490.211 Determining whether a State DOT has made significant progress toward achieving performance targets.

- a) Agree that the performance measures should be based on data that is readily available and uniform across the country (FARS, HPMS, and previously defined serious injuries from state crash records).
- b) We have specific concerns with the methodology proposed by FHWA for measuring significant progress toward performance targets:
 - The process is difficult to understand for technical staff, and may be viewed as entirely a black box by MPO decision makers and the public. This runs counter to the intent of MAP-21 that performance based planning and programming increases the transparency and accountability of the planning process.
 - The methodology looks backward by using an historical trend line. Combined with the time lag highlighted in the discussion portion of the rulemaking, particularly for FARS data, it will be difficult for both states and MPOs to measure the outcomes of specific projects or strategies included in each current year of the TIP/STIP.
 - We propose that FHWA consider a simplified method for determining significant progress toward achievement of performance targets, perhaps as simple as a pre-determined percentage of the target value (85% for example).
- c) No comment
- d) No comment

§490.213 Reporting on targets for the Highway Safety Improvement Program

- a) No comment
- b) and (c) We agree that is acceptable to require MPOs to report on safety performance targets and progress to the state DOT as specified in the Metropolitan Planning Agreement; and in the Metropolitan Transportation Plan.

Addendum to comments

In addition to any general comments you may have, the FHWA has requested specific input on several topics that are outlined below. Please use the table below each section to provide your comments – if no comments, please indicate.

Comment Area 1: (pg13852)

Principles considered in the development of national performance measures:

1. Provide for a National Focus
2. Minimize the Number of Measures
3. Ensure for Consistency
4. Phase in Requirements
5. Increase Accountability and Transparency
6. Consider Risk
7. Understand that Priorities Differ
8. Recognize Fiscal Constraints
9. Provide for Flexibility

Please comment on the extent to which the approach to performance measures set forth in this NPRM supports the principles discussed above.

The NYS MPOs find that the proposed Safety Performance rule generally meets the intent of these principles. The basic principles make sense, especially the need to maintain flexibility between the MPOs and the State DOT's. Regional and state wide priorities may differ and they may also differ in the various regions within the state. Giving the MPOs the option to use their own targets or the state's targets is important. MPOs may choose to tailor their targets based on regional crash data which will help to refine the targets set and focus regional resources on the most important problems.

We are, however, concerned that the NPRM does not fully realize the opportunity for Increased Accountability and Transparency(#5) as a result of the proposed methodology for determining whether states are making significant progress toward their performance targets. The public may be left wondering if this is a "black box" analysis meant to obscure rather than inform.

It is also not clear how this NPRM demonstrates an understanding that priorities differ (#7). Improving safety in terms of reducing deaths and injuries for all users should be a high priority of both State DOTs and MPOs, but priorities may differ on modal issues, and as trade-offs are made with other national goals in a highly constrained funding environment.

Comment Area 2: (pg 13853, last paragraph, non-motorized users)

The DOT requests comments on how the Department could address separate non-motorized performance measures. The DOT requests input on the extent to which States and MPOs currently collect and report non-motorized data (fatality, serious injury, miles traveled) and the reliability and accuracy of such data, and how States and MPOs consider such data in their safety programs and in selecting investments. The DOT also invites the public to suggest ways to most efficiently track, report, and use performance measures to improve safety.

NYSAMPO finds this to be a major concern, in part because New York's overall safety performance is driven to some extent by a large number of pedestrian crashes in urban settings, especially New York City. Underreporting of non-motorized crashes is an issue, but not for fatalities and serious injuries. But VMT is the wrong measure for a rate-based measure for non-motorized modes.

FHWA recognizes that an exposure-based measure would be more accurate. We share the concern that requiring pedestrian and bicycle counts would create very resource-intensive data collection. We have discussed per capita as a surrogate for exposure, since Census population data is universally available; but are not certain how much better this would be than VMT. However, since some MPOs and their local government members do collect pedestrian and/or bicycle count data, FHWA could consider a pilot program in those locations to study the value of an exposure-based measure.

States and MPOs do need to recognize the higher risk of vulnerable roadway users like pedestrians and bicyclists. Since different strategies apply to reducing non-motorized (v. motorized) crashes, MPOs may do a better job of addressing the safety needs of these modes if they were somehow called out in target setting and achievement.

Comment Area 3: (pg 13857, Definitions, 5-year rolling average)

Please comment on whether a 3-, 4- or 5-year rolling average should be required for the HSIP performance measures. Stakeholders are also encouraged to comment on whether the use of moving averages is appropriate to predict future metrics.

We agree that a rolling average is the proper methodology for documenting trends in safety performance, because it smooths out the propensity for random crash events. We are concerned that a 5 year rolling average may be too long, since it uses historical data that looks backward when the intent of MAP-21 is to measure the outcomes of current state and MPO investment choices. We would like to better understand why a 3-year rolling average was not selected.

Comment Area 4: (pg 13858, injury classification)

Please comment on whether an injury classification and coding system (other than MMUCC compliant KABCO scale) would be more appropriate for the purposes of this rule.

New York is MMUCC complaint, so we support the proposal.

Comment Area 5: (pg 13860, time lag in data for FARS, HPMS)

The current time lag (time period between the end of the calendar year in which the data were collected to the date the data is available in the national system for the final FARS and HPMS data) is approximately 24 months. The DOT seeks comments on whether this time lag is an issue, any impacts it may have on a State DOT's ability to establish targets, and any suggestions that can help address this issue.

NYSAMPO finds the time lag to be an issue, but one that may be unresolvable given the nature of the data sources. The fact that safety performance will always be in a "look back" mode seems to run counter to the intent of MAP-21 to use investment outcomes to direct investments to meet targets. But there is no present alternative, in our view, to using FARS and HPMS, since national access to and uniformity of data is important. We do not have any suggestions to improve the analysis.

Comment Area 6: (pg 13861, coordination of targets between State and MPOs)

Many differences in target setting boundaries could exist that would require State DOTs and MPOs to coordinate on quantifiable targets between them using the proposed target setting requirements in this section. As part of the coordination process, State DOTs and MPOs are encouraged to consider how the data will be reported. The FHWA is seeking comment on alternative approaches that could be considered to effectively implement the coordination requirements of MAP-21 (e.g., 23 U.S.C. 134(h)(2)(B)(i)(I) and 23 U.S.C. 150(d)(2) considering the need for coordination required under 23 U.S.C. 134(h)(2)(B)(i)(II) and 23 U.S.C. 135(d)(2)(B)(i)(II).)

Target setting has the potential for being the most difficult part of Performance Based Planning and Programming. MAP-21 sets the stage for a top-down approach, with states taking the lead on setting targets for all national performance measures, followed by MPO target setting. Coordination is often interpreted situationally. The real concern is honest differences in priorities among all of the MAP-21 goals and performance measures, which may be most revealed at the MPO table. State DOTs may have priorities imposed by Governors and Legislatures, while other MPO members (NYS DOT is a member of all New York MPO Policy Committees) may respond to their own local government policy structure. HSIP must of course be spent on safety improvements, but other fund sources like STP are flexible. The proposal to permit MPOs to either contribute to achievement of state targets, or set their own, is not unreasonable. The concern is that even larger (TMA) MPOs control little funding directly; the TIP is to a great extent a composite of state DOT choices. Coordination on target setting is paramount, given the requirements imposed on state DOTs for reporting progress, managing the HSIP program, and developing the Strategic Highway Safety Plan.

The flexibility offered to MPOs in the proposed rulemaking is positive and the focus on the number of fatal and severe injury crashes makes sense.

Although there is value in setting an additional performance measure and target for urbanized and non-urbanized areas, this option should remain voluntary. Also keep the provision that MPOs will not be penalized if targets are not met as the MPO has no direct control over what is

implemented for safety projects/programs, especially engineering and enforcement.

Setting targets annually does not fit in with the time horizon of long range plans which is recognized by FHWA but will be the ONLY performance measure held to that standard. If the MPOs are not accountable than why have that provision for only this measure? This should be reconsidered. It may also force the MPOs to choose to use the state target each year (due to time and resource limitations) and align project and program funds to state supported initiatives at the expense of the regional/local context at each MPO (regional crash data may not tell the same story as the statewide data). Also, the mechanics of how targets are to be reported to the state need to be worked out with each MPO through their metropolitan planning agreement. The time frame of target reporting is far more frequent than anything similar currently.

Comment Area 7: (pg 13862, use of linear regression trend line to evaluate “significant progress”)

Please comment on the appropriateness of the trend line methodology proposed for the significant progress analysis.

NYSAMPO finds the proposed methodology problematic for a number of reasons:

- The process is difficult to understand for technical staff, and may be viewed as entirely a black box by MPO decision makers and the public. This runs counter to the intent of MAP-21 that performance based planning and programming increases the transparency and accountability of the planning process.
- The methodology looks backward by using an historical trend line. Combined with the time lag highlighted in the discussion portion of the rulemaking, particularly for FARS data, it will be difficult for both states and MPOs to measure the outcomes of specific projects or strategies included in each current year of the TIP/STIP.
- We propose that FHWA consider a simplified method for determining significant progress toward achievement of performance targets, perhaps as simple as a pre-determined percentage of the target value (85% for example).

Comment Area 8: (pg 13863, prediction interval)

Please comment on whether the underlying methodology of the prediction interval is appropriate.

Same comment as #7

Comment Area 9: (pg 13863, threshold for achieving performance targets)

Please comment on whether 50 percent is the appropriate threshold for determining if a State has overall achieved or made significant progress toward achieving its performance targets.

This depends in part on whether the methodology for defining significant progress is redefined. But given the consequences of altering the HSIP program, the proposed 50% achievement is acceptable.

Comment Area 10:

Please provide any additional or general comments on the NPRM

1. While we understand that HSIP has been crafted by statute so that it may be used on all public roads, FHWA must be cautious on how this Rule will be implemented for locally owned roads off the Federal - aid system. There must be a reasonable sampling plan for traffic counts.
2. How will the time horizons of MPO long range plans, the Highway Safety Plan and the Strategic Highway Safety Plan be addressed if targets are to be annually updated?
3. We understand that there are statutory and institutional limitations, but looking to the future it would be helpful if USDOT would examine the number of safety plans that State DOTs must submit (and MPOs often participate in) to FHWA, NHTSA, FMCSA. A single comprehensive safety plan would permit more efficient use of staff resources, and may well point the way to more effective investment of federal safety funds.