

Substantial Implementation FAQs

1. What is substantial implementation?

Because every jurisdiction's laws and policies differ, the SMART Office must work within the framework of [SORNA's final guidelines](#) provided by the Attorney General when determining substantial implementation, and we offer the following guidance to help jurisdictions institute SORNA-compliant laws, policies, and procedures.

The guidelines state that jurisdictions' programs cannot be approved if they substitute some approach to sex offender registration and notification that does not incorporate SORNA's baseline requirements. In addition, the guidelines state that implementation programs cannot be approved if they dispense wholesale with categorical requirements set forth in SORNA.

On the other hand, the guidelines do provide that a jurisdiction's implementation efforts that do not exactly follow all specifications of SORNA or the guidelines may be approved. The guidelines require SMART to consider, on a case-by-case basis, whether jurisdictions' departure from a SORNA requirement will or will not substantially disserve the objectives of the requirement.

After assessing whether a jurisdiction has sufficiently addressed each SORNA requirement, SMART examines the jurisdiction's implementation program as a whole to determine if it promotes the overall objectives of SORNA.

Jurisdictions should reach out to the SMART Office as early as possible when developing their SORNA implementation program and discuss specific issues that may arise. SMART will be as flexible as possible within the framework established by the Act and the guidelines, and looks forward to advising each jurisdiction in efforts to achieve substantial implementation.

See Part II.B and E of the Final Guidelines for more detail.

2. What are the consequences for jurisdictions that fail to substantially implement SORNA?

States and territories that fail to substantially implement SORNA are subject to a 10% reduction in Byrne Justice Assistance Grant funding pursuant to 42 U.S.C. 3750 et seq. Tribal jurisdictions that fail to substantially implement SORNA are subject to delegation. Section 127(a)(2)(C) of SORNA provides that if "the Attorney General determines that the tribe has not substantially implemented the requirements of this subtitle and is not likely to become capable of doing so within a reasonable amount of time" then the sex offender registry function may be delegated to the state.

See Parts II.A and II.E of the Final Guidelines for more detail.

*http://ojp.gov/smart/faqs/faq_subimplementation.htm