

*Random sample.* A sample drawn from a lot in which each increment in the lot has an equal probability of being chosen.

*Vendor.* A supplier of project-produced material that is not the contractor.

*Verification sampling and testing.* Sampling and testing performed to validate the quality of the product.

**§ 637.205 Policy.**

(a) *Quality assurance program.* Each SHA shall develop a quality assurance program which will assure that the materials and workmanship incorporated into each Federal-aid highway construction project on the NHS are in conformity with the requirements of the approved plans and specifications, including approved changes. The program must meet the criteria in § 637.207 and be approved by the FHWA.

(b) *SHA capabilities.* The SHA shall maintain an adequate, qualified staff to administer its quality assurance program. The State shall also maintain a central laboratory. The State's central laboratory shall meet the requirements in § 637.209(a)(2).

(c) *Independent assurance program.* Independent assurance samples and tests or other procedures shall be performed by qualified sampling and testing personnel employed by the SHA or its designated agent.

(d) *Verification sampling and testing.* The verification sampling and testing are to be performed by qualified testing personnel employed by the SHA or its designated agent, excluding the contractor and vendor.

(e) *Random samples.* All samples used for quality control and verification sampling and testing shall be random samples.

**§ 637.207 Quality assurance program.**

(a) Each SHA's quality assurance program shall provide for an acceptance program and an independent assurance (IA) program consisting of the following:

(1) Acceptance program.

(i) Each SHA's acceptance program shall consist of the following:

(A) Frequency guide schedules for verification sampling and testing which will give general guidance to

personnel responsible for the program and allow adaptation to specific project conditions and needs.

(B) Identification of the specific location in the construction or production operation at which verification sampling and testing is to be accomplished.

(C) Identification of the specific attributes to be inspected which reflect the quality of the finished product.

(ii) Quality control sampling and testing results may be used as part of the acceptance decision provided that:

(A) The sampling and testing has been performed by qualified laboratories and qualified sampling and testing personnel.

(B) The quality of the material has been validated by the verification sampling and testing. The verification testing shall be performed on samples that are taken independently of the quality control samples.

(C) The quality control sampling and testing is evaluated by an IA program.

(iii) If the results from the quality control sampling and testing are used in the acceptance program, the SHA shall establish a dispute resolution system. The dispute resolution system shall address the resolution of discrepancies occurring between the verification sampling and testing and the quality control sampling and testing. The dispute resolution system may be administered entirely within the SHA.

(2) The IA program shall evaluate the qualified sampling and testing personnel and the testing equipment. The program shall cover sampling procedures, testing procedures, and testing equipment. Each IA program shall include a schedule of frequency for IA evaluation. The schedule may be established based on either a project basis or a system basis. The frequency can be based on either a unit of production or on a unit of time.

(i) The testing equipment shall be evaluated by using one or more of the following: Calibration checks, split samples, or proficiency samples.

(ii) Testing personnel shall be evaluated by observations and split samples or proficiency samples.

(iii) A prompt comparison and documentation shall be made of test results obtained by the tester being evaluated

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and the IA tester. The SHA shall develop guidelines including tolerance limits for the comparison of test results.

(iv) If the SHA uses the system approach to the IA program, the SHA shall provide an annual report to the FHWA summarizing the results of the IA program.

(3) The preparation of a materials certification, conforming in substance to Appendix A of this subpart, shall be submitted to the FHWA Division Administrator for each construction project which is subject to FHWA construction oversight activities.

(b) [Reserved]

**§ 637.209 Laboratory and sampling and testing personnel qualifications.**

(a) Laboratories.

(1) After June 29, 2000, all contractor, vendor, and SHA testing used in the acceptance decision shall be performed by qualified laboratories.

(2) After June 30, 1997, each SHA shall have its central laboratory accredited by the AASHTO Accreditation Program or a comparable laboratory accreditation program approved by the FHWA.

(3) After June 29, 2000, any non-SHA designated laboratory which performs IA sampling and testing shall be accredited in the testing to be performed by the AASHTO Accreditation Program or a comparable laboratory accreditation program approved by the FHWA.

(4) After June 29, 2000, any non-SHA laboratory that is used in dispute resolution sampling and testing shall be accredited in the testing to be performed by the AASHTO Accreditation Program or a comparable laboratory accreditation program approved by the FHWA.

(b) Sampling and testing personnel. After June 29, 2000, all sampling and testing data to be used in the acceptance decision or the IA program shall be executed by qualified sampling and testing personnel.

(c) Conflict of interest. In order to avoid an appearance of a conflict of interest, any qualified non-SHA laboratory shall perform only one of the following types of testing on the same project: Verification testing, quality

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control testing, IA testing, or dispute resolution testing.

**APPENDIX A TO SUBPART B—GUIDE LETTER OF CERTIFICATION BY STATE ENGINEER**

Date \_\_\_\_\_

Project No. \_\_\_\_\_

This is to certify that:

The results of the tests used in the acceptance program indicate that the materials incorporated in the construction work, and the construction operations controlled by sampling and testing, were in conformity with the approved plans and specifications. (The following sentence should be added if the IA testing frequencies are based on project quantities. All independent assurance samples and tests are within tolerance limits of the samples and tests that are used in the acceptance program.)

Exceptions to the plans and specifications are explained on the back hereof (or on attached sheet).

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Director of SHA Laboratory or other appropriate SHA Official.

**PART 640—CERTIFICATION ACCEPTANCE**

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- 640.103 Definitions.
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AUTHORITY: 23 U.S.C. 101(e), 117, and 315; 49 CFR 1.48(b).

SOURCE: 60 FR 47483, Sept. 13, 1995, unless otherwise noted.

**§ 640.101 Purpose.**

The purpose of this part is to provide instructions for preparation and acceptance of State certification proposals to accomplish the policies and objectives of title 23, U.S.C., using State laws, regulations, directives, and standards. Also covered are procedures for administering projects under certification acceptance and evaluating State performance.