

paragraph (a) of this section. Exceptions for minor repairs must be clearly defined in a State's maintenance program.

(c) These guidelines shall be interpreted to expect that repairs and maintenance will be performed without unreasonable delay, that variations from the State's approved program will be allowed in situations involving emergency or unforeseeability, and that the State will seek to attain a high level of maintenance.

#### § 635.507 Implementation.

(a) Each State transportation department shall prepare an initial program submission which shall include a description of the State's Interstate maintenance program; a discussion of the method by which the State manages its program, including copies of operating documents; and a general description of the level of resources and activity the State intends to devote to attain the objectives stated under each of the critical elements in § 635.505(a). This initial submission shall be made to the FHWA no later than 120 days after the effective date of this subpart. The FHWA shall review each State's initial program submission for conformance with the provisions of this subpart and approve or disapprove the submission on the basis of that review.

(b) Within one year after the effective date of this subpart, and by January 1 of each subsequent year, each State transportation department shall certify to the FHWA that it has an Interstate maintenance program as required by this subpart and that its Interstate routes are being maintained in accordance with that program.

(c) Beginning in 1981 and each year thereafter, each State transportation department shall update its initial program submission by providing the FHWA with a discussion of:

- (1) The condition of the State's Interstate routes and deficiencies,
- (2) State maintenance priorities,
- (3) The State maintenance budget, and
- (4) Exceptions and/or revisions to the initial submission.

(d) The FHWA shall review each State's annual submission for conformance with the provisions of this sub-

part and monitor the implementation of each State's program in accordance with the review procedures described in the FHWA Maintenance Review Manual<sup>2</sup> and the Federal-Aid Highway Program Manual, volume 6, chapter 4, section 3, subsection 1.<sup>3</sup> If differences between the State and the FHWA cannot be resolved concerning the adequacy of the Interstate maintenance program's level of resources and activity, the FHWA shall initiate action under § 635.509.

#### § 635.509 Deficient or unsatisfactory maintenance.

(a) *Fund reduction.* If a State fails to certify as required by this subpart, or if the Secretary determines that a State is not adequately maintaining its Interstate routes in accordance with a maintenance program as required by this subpart, the Federal-aid highway funds apportioned to the State for the next fiscal year (after the date on which the State must certify) shall be reduced by an amount equal to 10 percent of the amount which would otherwise be apportioned to the State under 23 U.S.C. 104. In addition, future project approvals may be withheld by the Secretary under 23 U.S.C. 116.

(b) *Procedure for reduction of funds.* (1) If it appears to the Federal Highway Administrator that a State has not submitted a certification conforming to the requirements of this subpart, or that a State is not adequately maintaining its Interstate routes in accordance with a maintenance program as required by this subpart, the Administrator shall make in writing a proposed determination of nonconformity, and shall notify the Governor of the State of the proposed determination by certified mail. The notice shall state the reasons for the proposed determination and inform the State that it may within 30 days from the date of the letter request a hearing to show cause why it should not be found in nonconformity. If the State informs the Administrator before the end of the 30-day period that it wishes to attempt to resolve the matter informally, the Administrator may extend the time for requesting a

<sup>2, 3</sup> Available for inspection and copying as prescribed in 49 CFR part 7, appendix D.