

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

(iv) If the STD uses the system approach to the IA program, the STD 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) In the case of a design-build project funded under title 23, U.S. Code, the STD's quality assurance program should consider the specific contractual needs of the design-build project. All provisions of paragraph (a) of this section are applicable to design-build projects. In addition, the quality assurance program may include the following:

(1) Reliance on a combination of contractual provisions and acceptance methods;

(2) Reliance on quality control sampling and testing as part of the acceptance decision, provided that adequate verification of the design-builder's quality control sampling and testing is performed to ensure that the design-builder is providing the quality of materials and construction required by the contract documents.

(3) Contractual provisions which require the operation of the completed facility for a specific time period.

[60 FR 33717, June 29, 1995, as amended at 67 FR 75934, Dec. 10, 2002]

§ 637.209 Laboratory and sampling and testing personnel qualifications.

(a) Laboratories.

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

(2) After June 30, 1997, each STD 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-STD 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-STD 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.

(5) After September 24, 2009, laboratories that perform crash testing for acceptance of roadside hardware by the FHWA shall be accredited by a laboratory accreditation body that is recognized by the National Cooperation for Laboratory Accreditation (NACLA), is a signatory to the Asia Pacific Laboratory Accreditation Cooperation (APLAC) Mutual Recognition Arrangement (MRA), is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA), or another accreditation body acceptable to 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-STD laboratory shall perform only one of the following types of testing on the same project: Verification testing, quality control testing, IA testing, or dispute resolution testing.

[60 FR 33717, June 29, 1995, as amended at 72 FR 54212, Sept. 24, 2007]

APPENDIX A TO SUBPART B OF PART 637—GUIDE LETTER OF CERTIFICATION BY STATE ENGINEER

Date _____
Project No. _____
This is to certify that: