

Subpart F—State Involvement in Hazardous Substance Response

SOURCE: 55 FR 8853, Mar. 8, 1990, unless otherwise noted.

§ 300.500 General.

(a) EPA shall ensure meaningful and substantial state involvement in hazardous substance response as specified in this subpart. EPA shall provide an opportunity for state participation in removal, pre-remedial, remedial, and enforcement response activities. EPA shall encourage states to enter into an EPA/state Superfund Memorandum of Agreement (SMOA) under § 300.505 to increase state involvement and strengthen the EPA/state partnership.

(b) EPA shall encourage states to participate in Fund-financed response in two ways. Pursuant to § 300.515(a), states may either assume the lead through a cooperative agreement for the response action or may be the support agency in EPA-lead remedial response. Section 300.515 sets forth requirements for state involvement in EPA-lead remedial and enforcement response and also addresses comparable requirements for EPA involvement in state-lead remedial and enforcement response. Section 300.520 specifies requirements for state involvement in EPA-lead enforcement negotiations. Section 300.525 specifies requirements for state involvement in removal actions. In addition to the requirements set forth in this subpart, 40 CFR part 35, subpart O, "Cooperative Agreements and Superfund State Contracts for Superfund Response Actions," contains further requirements for state participation during response.

§ 300.505 EPA/State Superfund Memorandum of Agreement (SMOA).

(a) The SMOA may establish the nature and extent of EPA and state interaction during EPA-lead and state-lead response (Indian tribes meeting the requirements of § 300.515(b) may be treated as states for purposes of this section). EPA shall enter into SMOA discussions if requested by a state. The following may be addressed in a SMOA:

(1) The EPA/state or Indian tribe relationship for removal, pre-remedial, remedial, and enforcement response,

including a description of the roles and the responsibilities of each.

(2) The general requirements for EPA oversight. Oversight requirements may be more specifically defined in cooperative agreements.

(3) The general nature of lead and support agency interaction regarding the review of key documents and/or decision points in removal, pre-remedial, remedial, and enforcement response. The requirements for EPA and state review of each other's key documents when each is serving as the support agency shall be equivalent to the extent practicable. Review times agreed to in the SMOA must also be documented in site-specific cooperative agreements or Superfund state contracts in order to be binding.

(4) Procedures for modification of the SMOA (e.g., if EPA and a state agree that the lead and support agency roles and responsibilities have changed, or if modifications are required to achieve desired goals).

(b) The SMOA and any modifications thereto shall be executed by the EPA Regional Administrator and the head of the state agency designated as lead agency for state implementation of CERCLA.

(c) Site-specific agreements entered into pursuant to section 104(d)(1) of CERCLA shall be developed in accordance with 40 CFR part 35, subpart O. The SMOA shall not supersede such agreements.

(d)(1) EPA and the state shall consult annually to determine priorities and make lead and support agency designations for removal, pre-remedial, remedial, and enforcement response to be conducted during the next fiscal year and to discuss future priorities and long-term requirements for response. These consultations shall include the exchange of information on both Fund- and non-Fund-financed response activities. The SMOA may describe the time-frame and process for the EPA/state consultation.

(2) The following activities shall be discussed in the EPA/state consultations established in the SMOA, or otherwise initiated and documented in writing in the absence of a SMOA, on a site-specific basis with EPA and the