
40 C.F.R. § 300.515

Requirements for state involvement in remedial and enforcement response.

(a) *General.* (1) States are encouraged to undertake actions authorized under subpart E. Section 104(d)(1) of CERCLA authorizes EPA to enter into cooperative agreements or contracts with a state, political subdivision, or a federally recognized Indian tribe to carry out Fund-financed response actions authorized under CERCLA, when EPA determines that the state, the political subdivision, or federally recognized Indian tribe has the capability to undertake such actions. EPA will use a cooperative agreement to transfer funds to those entities to undertake Fund-financed response activities. The requirements for states, political subdivisions, or Indian tribes to receive funds as a lead or support agency for response are addressed at 40 CFR part 35, subpart O.

(2) For EPA-lead Fund-financed remedial planning activities, including, but not limited to, remedial investigations, feasibility studies, and remedial designs, the state agency acceptance of the support agency role during an EPA-lead response shall be documented in a letter, SMOA, or cooperative agreement. Superfund state contracts are unnecessary for this purpose.

(3) Cooperative agreements and Superfund state contracts are only appropriate for non-Fund-financed response actions if a state intends to seek credit for remedial action expenses under § 300.510.

(b) *Indian tribe involvement during response.* To be afforded substantially the same treatment as states under section 104 of CERCLA, the governing body of the Indian tribe must:

(1) Be federally recognized; and

(2) Have a tribal governing body that is currently performing governmental functions to promote the health, safety, and welfare of the affected population or to protect the environment within a defined geographic area; and

(3) Have jurisdiction over a site at which Fund-financed response, including pre-remedial activities, is contemplated.

(c) *State involvement in PA/SI and National Priorities List process.* EPA shall ensure state involvement in the listing and deletion process by providing states opportunities for review, consultation, or concurrence specified in this section.

(1) EPA shall consult with states as appropriate on the information to be used in developing HRS scores for releases.

(2) EPA shall, to the extent feasible, provide the state 30 working days to review releases which were scored by EPA and which will be considered for placement on the National Priorities List (NPL).

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