

**§ 35.6115**

**40 CFR Ch. I (7-1-11 Edition)**

requirements included in the “Application for Federal Assistance” (SF-424). Consistent with the NCP (40 CFR 300.510(e)(2)), this subpart does not address whether Indian Tribes are States for the purpose of CERCLA section 104(c)(9).

(b) *Cooperative Agreement requirements.* (1) The Indian Tribe must comply with all terms and conditions in the Cooperative Agreement.

(2) If it is designated the lead for remedial action, the Indian Tribe must provide the notification required at §35.6120, substituting the term “Indian Tribe” for the term “State” in that section, and “out-of-an-Indian-Tribal-area-of-Indian-country” for “out-of-State”.

(3) Indian Tribes are not required to share in the cost of CERCLA-funded remedial actions.

**§ 35.6115 Political subdivision-lead remedial Cooperative Agreements.**

(a) *General.* If the State concurs, EPA may allow a political subdivision with the necessary capabilities and jurisdictional authority to conduct remedial response activities at a site. EPA will award the political subdivision a Cooperative Agreement to conduct remedial response and enter into a parallel Superfund State Contract with the State, if required (*See* §35.6800, when a Superfund State Contract is required). The political subdivision may also be a signatory to the Superfund State Contract. The political subdivision must submit to the State a copy of all reports provided to EPA.

(b) *Political subdivision Cooperative Agreement requirements—(1) Application requirements.* To receive a remedial Cooperative Agreement, the political subdivision must prepare an application which includes the documentation described in §35.6105(a)(1) through (a)(3).

(2) *Cooperative Agreement requirements.* The political subdivision must comply with all terms and conditions in the Cooperative Agreement. If it is designated the lead for remedial action, the political subdivision must provide the notification required at §35.6120, substituting the term “political subdivision” for the term “State” in that section.

**§ 35.6120 Notification of the out-of-State or out-of-an-Indian-Tribal-area-of-Indian-country transfer of CERCLA waste.**

(a) The recipient must provide written notification of off-site shipments of CERCLA waste from a site to an out-of-State or out-of-an-Indian-Tribal-area-of-Indian-country waste management facility to:

(1) The appropriate State environmental official for the State in which the waste management facility is located; and/or

(2) An appropriate official of an Indian Tribe in whose area of Indian country the waste management facility is located; and

(3) The EPA Award Official.

(b) The notification of off-site shipments does not apply when the total volume of all such shipments from the site does not exceed 10 cubic yards.

(c) The notification must be in writing and must provide the following information, where available:

(1) The name and location of the facility to which the CERCLA waste is to be shipped;

(2) The type and quantity of CERCLA waste to be shipped;

(3) The expected schedule for the shipments of the CERCLA waste; and

(4) The method of transportation of the CERCLA waste.

(d) The recipient must notify the State or Indian Tribal government in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the CERCLA waste to another facility within the same receiving State, or to a facility in another State.

(e) The recipient must provide relevant information on the off-site shipments, including the information in paragraph (c) of this section, as soon as possible after the award of the contract and, where practicable, before the CERCLA waste is actually shipped.

**ENFORCEMENT COOPERATIVE AGREEMENTS**

**§ 35.6145 Eligibility for enforcement Cooperative Agreements.**

Pursuant to CERCLA section 104(d), States, political subdivisions thereof,