

(B) The state agrees to assume the lead for supervising the state-funded component of the remedy or, if EPA determines that the state-funded component cannot be conducted as a separate phase or activity, for supervising the remedial design and construction of the entire remedy.

(2) Where a state does not concur in a remedial action secured by EPA under CERCLA section 106, and the state desires to have the remedial action conform to an ARAR that has been waived under § 300.430(f)(1)(ii)(C), a state may seek to have that remedial action so conform, in accordance with the procedures set out in CERCLA section 121(f)(2).

(g) *State involvement in remedial design/remedial action.* The extent and nature of state involvement during remedial design and remedial action shall be specified in site-specific cooperative agreements or Superfund state contracts, consistent with 40 CFR part 35, subpart O. For Fund-financed remedial actions, the lead and support agencies shall conduct a joint inspection at the conclusion of construction of the remedial action to determine that the remedy has been constructed in accordance with the ROD and with the remedial design.

(h) *Requirements for state involvement in absence of SMOA.* In the absence of a SMOA, EPA and the state shall comply with the requirements in § 300.515(h). If the SMOA does not address all of the requirements specified in § 300.515(h), EPA and the state shall comply with any unaddressed requirements in that section.

(1) *Annual consultations.* EPA shall conduct consultations with states at least annually to establish priorities and identify and document in writing the lead for remedial and enforcement response for each NPL site within the state for the upcoming fiscal year. States shall be given the opportunity to participate in long-term planning efforts for remedial and enforcement response during these annual consultations.

(2) *Identification of ARARs and TBCs.* The lead and support agencies shall discuss potential ARARs during the scoping of the RI/FS. The lead agency shall request potential ARARs from

the support agency no later than the time that the site characterization data are available. The support agency shall communicate in writing those potential ARARs to the lead agency within 30 working days of receipt of the lead agency request for these ARARs. The lead and support agencies may also discuss and communicate other pertinent advisories, criteria, or guidance to be considered (TBCs). After the initial screening of alternatives has been completed but prior to initiation of the comparative analysis conducted during the detailed analysis phase of the FS, the lead agency shall request that the support agency communicate any additional requirements that are applicable or relevant and appropriate to the alternatives contemplated within 30 working days of receipt of this request. The lead agency shall thereafter consult the support agency to ensure that identified ARARs and TBCs are updated as appropriate.

(3) *Support agency review of lead agency documents.* The lead agency shall provide the support agency an opportunity to review and comment on the RI/FS, proposed plan, ROD, and remedial design, and any proposed determinations on potential ARARs and TBCs. The support agency shall have a minimum of 10 working days and a maximum of 15 working days to provide comments to the lead agency on the RI/FS, ROD, ARAR/TBC determinations, and remedial design. The support agency shall have a minimum of five working days and a maximum of 10 working days to comment on the proposed plan.

(i) *Administrative record requirements.* The state, where it is the lead agency for a Fund-financed site, shall compile and maintain the administrative record for selection of a response action under subpart I of this part unless specified otherwise in the SMOA.

§ 300.520 State involvement in EPA-lead enforcement negotiations.

(a) EPA shall notify states of response action negotiations to be conducted by EPA with potentially responsible parties during each fiscal year.

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(b) The state must notify EPA of such negotiations in which it intends to participate.

(c) The state is not foreclosed from signing a consent decree if it does not participate substantially in the negotiations.

§ 300.525 State involvement in removal actions.

(a) States may undertake Fund-financed removal actions pursuant to a cooperative agreement with EPA. State-lead removal actions taken pursuant to cooperative agreements must be conducted in accordance with § 300.415 on removal actions, and 40 CFR part 35, subpart O.

(b) States are not required under section 104(c)(3) of CERCLA to share in the cost of a Fund-financed removal action, unless the removal is conducted at an NPL site that was operated by a state or political subdivision at the time of disposal of hazardous substances therein and a Fund-financed remedial action is ultimately undertaken at the site. In this situation, states are required to share, 50 percent or greater, in the cost of all removal (including remedial planning) and remedial action costs at the time of the remedial action.

(c) States are encouraged to provide for post-removal site control as discussed in § 300.415(k) for all Fund-financed removal actions.

(d) States shall be responsible for identifying potential state ARARs for all Fund-financed removal actions and for providing such ARARs to EPA in a timely manner for all EPA-lead removal actions.

(e) EPA shall consult with a state on all removal actions to be conducted in that state.

Subpart G—Trustees for Natural Resources

SOURCE: 59 FR 47450, Sept. 15, 1994, unless otherwise noted.

§ 300.600 Designation of federal trustees.

(a) The President is required to designate in the NCP those federal officials who are to act on behalf of the public as trustees for natural re-

sources. Federal officials so designated will act pursuant to section 107(f) of CERCLA, section 311(f)(5) of the CWA, and section 1006 of the OPA. Natural resources means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled (hereinafter referred to as “managed or controlled”) by the United States (including the resources of the exclusive economic zone).

(b) The following individuals shall be the designated trustee(s) for general categories of natural resources, including their supporting ecosystems. They are authorized to act pursuant to section 107(f) of CERCLA, section 311(f)(5) of the CWA, or section 1006 of the OPA when there is injury to, destruction of, loss of, or threat to natural resources, including their supporting ecosystems, as a result of a release of a hazardous substance or a discharge of oil. Notwithstanding the other designations in this section, the Secretaries of Commerce and the Interior shall act as trustees of those resources subject to their respective management or control.

(1) *Secretary of Commerce.* The Secretary of Commerce shall act as trustee for natural resources managed or controlled by DOC and for natural resources managed or controlled by other federal agencies and that are found in, under, or using waters navigable by deep draft vessels, tidally influenced waters, or waters of the contiguous zone, the exclusive economic zone, and the outer continental shelf. However, before the Secretary takes an action with respect to an affected resource under the management or control of another federal agency, he shall, whenever practicable, seek to obtain the concurrence of that other federal agency. Examples of the Secretary’s trusteeship include the following natural resources and their supporting ecosystems: marine fishery resources; anadromous fish; endangered species and marine mammals; and the resources of National Marine Sanctuaries and National Estuarine Research Reserves.

(2) *Secretary of the Interior.* The Secretary of the Interior shall act as