

Dear Senators LODGE, Harris, Stennett, and
Representatives HARRIS, Armstrong, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Office of the Governor - Military Division - Bureau of Homeland Security:

IDAPA 15.06.00 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket
No. 15-0600-1900) - Idaho Military Division.

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 07/19/2019. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 08/16/2019.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate State Affairs Committee Committee and the House State Affairs Committee Committee
FROM: Deputy Division Manager - Katharine Gerrity
DATE: July 1, 2019
SUBJECT: Office of the Governor - Military Division - Bureau of Homeland Security

IDAPA 15.06.00 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket No. 15-0600-1900) - Idaho Military Division

The Idaho Military Division submits notice of temporary and proposed rules that reauthorize and re-publish the following previously approved chapters at IDAPA:

- 15.06.01, Rules Governing the Idaho Public Safety Communications Commission
- 15.06.02, Rules Governing the Idaho Public Safety Communications Commission Grants
- 15.06.04, Rules Governing the Idaho Youth Challenge Program
- 15.06.05, Hazardous Substance Response Rules
- 15.06.06, Rules Governing Use of Disaster Emergency Account Funds

These rules were previously analyzed and reviewed by the Legislative Services Office upon their initial promulgation. Changes from the previously approved rules are nonsubstantive in nature and include technical corrections in Section 100 of IDAPA 15.06.05 to update the Regional Response Team (RRT) for Region 5 (Primary response counties are Blaine, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls) and abbreviations throughout were simplified. No other changes from the existing rules have been noted.

Rulemaking appears to be authorized pursuant to Sections 31-4816(18), Chapter 71, Title 39, Idaho Code, 46-804, 46-805, and 46-1027, Idaho Code.

cc: Office of the Governor - Military Division - Bureau of Homeland Security
Major General Michael J. Garshak

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

**IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO MILITARY DIVISION**

DOCKET NO. 15-0600-1900

NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 31-4816(18), 39-7101, 46-804, 46-805, and 46-1027, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 15.06, rules of the Military Division:

IDAPA 15.06

- 15.06.01, *Rules Governing the Idaho Public Safety Communications Commission*
- 15.06.02, *Rules Governing the Idaho Public Safety Communications Commission Grants*
- 15.06.04, *Rules Governing the Idaho Youth Challenge Program*
- 15.06.05, *Hazardous Substance Response Rules* - some technical corrections were made
- 15.06.06, *Rules Governing Use of Disaster Emergency Account Funds*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. Many of the rules listed above govern various emergency response, public safety, and communications functions necessary for the continued health and safety of the public. Further, the rules governing the Youth Challenge Program help ensure the continued success of that program.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Major Lauren Tschampl, (208) 422-5399.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

Michael J. Garshak
The Adjutant General
Idaho Military Division
4040 W. Guard, Building 600
Boise, Idaho 83705
(208) 422-5242

**IDAPA 15
TITLE 06
CHAPTER 01**

IDAPA 15 - OFFICE OF THE GOVERNOR

IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION

15.06.01 – RULES GOVERNING THE IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION

000. LEGAL AUTHORITY.

The following rules are promulgated in accordance with Section 31-4816(18), Idaho Code, by the Commission. (3-29-17)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 15.06.01, “Rules Governing the Idaho Public Safety Communications Commission.” (3-29-17)

02. Scope. Pursuant to Section 31-4817, Idaho Code, the Commission is directed to mediate disputes between local government agencies over the governance of operations of consolidated emergency communications systems and interoperable public safety communications and data systems. Mediation pursuant to Section 31-4817, Idaho Code, is a condition precedent to local government agencies initiating other legal proceedings. These rules will govern the mediation process. (3-29-17)

002. WRITTEN INTERPRETATIONS.

The Commission may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. Any such documents are available for public inspection and copying at the office of this Commission. (3-29-17)

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for administrative appeals of the procedures set forth in this chapter. (4-11-06)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (4-11-06)

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS.

The mailing and street address for the Idaho Public Safety Communications Commission is 4040 W. Guard, Building 600, Boise, Idaho 83705-5004. The Commission’s office hours are 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. (3-29-17)

006. PUBLIC RECORDS ACT COMPLIANCE.

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 74, Chapter 1, Idaho Code). (4-11-06)

007. -- 010. (RESERVED)

011. DEFINITIONS.

01. Commission. The Idaho Public Safety Communications Commission as established within the Military Division by Section 31-4815(1), Idaho Code. (3-29-17)

02. Local Government Agency. Those entities subject to Sections 31-4801 through 31-4818, Idaho Code. (4-11-06)

03. Mediation. The process required by Section 31-4817, Idaho Code, as a condition precedent to local government agencies initiating any legal action. (4-11-06)

04. Submission. Submission of the issues for mediation has occurred when the documents referred to in Sections 012, 020, and 035, if required, have been received by the Commission. (4-11-06)

012. REQUEST FOR MEDIATION.

The parties must submit a written request for mediation to the Commission. The written request must demonstrate to the reasonable satisfaction of the Commission that all parties are requesting the mediation. (4-11-06)

013. SCHEDULED GROUP MEDIATION.

Within fifteen (15) days from the date of receipt of a request for mediation, the Commission shall schedule a date for a mediation at which all parties and a quorum of the Commission can be present. The Commission shall notify the parties in writing of the date of the group mediation. (4-11-06)

014. REQUIREMENT OF SUBMISSION OF DOCUMENTS AND EXHIBITS.

The Commission may require the parties to produce documents at or before the date set for the group mediation. Such documents may include, but are not limited to, individual statements of position from each party. The Commission shall notify the parties in writing of any documents that may be required to be produced and the date of submission. No later than the date set by the Commission, the parties shall exchange and simultaneously submit to the Commission the required documents and exhibits. (4-11-06)

015. -- 019. (RESERVED)

020. INDIVIDUAL POSITION STATEMENTS.

If the Commission requires individual statements of position from each party, the statements of position should begin with a one (1) page statement of the dispute. (4-11-06)

01. Stipulation of Facts. The parties are encouraged to stipulate to as many facts as possible and clearly identify what facts are being stipulated. (4-11-06)

02. Supporting Documents. The parties should present their entitlement position with specific references to appropriate supporting documents, to be included with the statement of position. (4-11-06)

021. -- 024. (RESERVED)

025. JUDICIAL RULES.

The Commission will not be bound by any judicial rules of evidence or burden of proof applicable to civil proceedings. (4-11-06)

026. -- 029. (RESERVED)

030. GROUP MEDIATION.

The Commission chairman, or in his absence the vice-chairman or other commissioner designated by the chairman, will preside over the mediation. (4-11-06)

01. Initial Presentation. Each party shall make an initial presentation of its position with respect to the dispute. (4-11-06)

02. Rebuttals. The Commission may allow rebuttals to such presentations when it considers them relevant or necessary to make its recommendations. (4-11-06)

03. Time Limits. The Commission may set and limit the time of any presentation as it deems necessary for a sufficient understanding of the facts or issues to make its recommendation. (4-11-06)

04. Questions by Commission. The Commission may question the parties during the group mediation. (4-11-06)

031. -- 034. (RESERVED)

035. SUPPLEMENTAL DOCUMENTATION.

The Commission may require the parties to provide supplemental documentation and may establish a date by which such documentation is due. (4-11-06)

036. -- 039. (RESERVED)

040. COMMISSION RECOMMENDATION.

01. Time of Recommendation. No later than sixty (60) days from the date of submission of the issues to it, the Commission shall make its recommendation to the parties. (4-11-06)

02. Recommendation Oral or Written. The Commission may make such recommendation orally or in writing. (4-11-06)

03. Parties Can Accept in Whole or Part. The parties may accept the recommendation of the Commission in whole or in part. (4-11-06)

041. -- 044. (RESERVED)

045. TERMINATION OF MEDIATION.

The mediation shall be terminated: (4-11-06)

01. Settlement. By the signing of a settlement agreement between the parties covering any or all of the issues between them; and/or (4-11-06)

02. Failure to Agree. By the written declaration of all parties and the chairman, on behalf of the Commission, that the parties could not come to an agreement in the mediation covering any or all of the issues between them. (4-11-06)

046. -- 999. (RESERVED)

**IDAPA 15
TITLE 06
CHAPTER 02**

IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION

**15.06.02 – RULES GOVERNING THE IDAHO PUBLIC SAFETY
COMMUNICATIONS COMMISSION GRANTS**

000. LEGAL AUTHORITY.

The following rules are promulgated in accordance with Section 31-4816(18), Idaho Code, by the Commission. (3-29-17)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 15.06.02, “Rules Governing the Idaho Public Safety Communications Commission Grants.” (3-29-17)

02. Scope. Pursuant to Section 31-4819, Idaho Code, the Commission is directed to distribute moneys from the Idaho Emergency Communications Fund as grants to eligible entities. These rules will govern the grant process. (3-29-17)

002. WRITTEN INTERPRETATIONS.

The Commission may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. Any such documents are available for public inspection and copying at the office of this Commission. (3-29-17)

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for administrative appeals of the procedures set forth in this chapter. (4-11-06)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (4-11-06)

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- WEBSITE.

The mailing and street address for the Idaho Public Safety Communications Commission is 4040 W. Guard, Building 600, Boise, Idaho 83705-5004. The Commission’s office hours are 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The Commission’s website address is <https://ioem.idaho.gov/Pages/ECC/Ecc.aspx>. (3-29-17)

006. PUBLIC RECORDS ACT COMPLIANCE.

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 74, Chapter 1, Idaho Code). (4-11-06)

007. -- 010. (RESERVED)

011. DEFINITIONS.

01. Applicant. A Consolidated Emergency Communication Center submitting a grant application. (4-11-06)

02. Commission. The Idaho Public Safety Communications Commission as established within the Military Division by Section 31-4815(1), Idaho Code. (3-29-17)

03. Consolidated Emergency Communication Center. A governmental or multi-governmental organization authorized to collect emergency communication fees in accordance with Title 31, Chapter 48, Idaho Code. (4-11-06)

04. Emergency Communications Grant Fund (ECGF). The portion of the Fund made available annually for grant disbursement. (4-11-06)

- 05. Fund.** The Idaho Emergency Communications Fund established by Section 31-4818, Idaho Code. (4-11-06)
- 06. Grant Cycle.** The period between July 1 through the following June 30 for grant application distribution, submission, award notice and disbursement in accordance with dates established in Section 021 of these rules. (4-11-06)
- 07. Taxing District.** A fire protection district created pursuant to Section 31-1402, Idaho Code, an ambulance service created pursuant to Section 31-3901, Idaho Code, or an ambulance service district created pursuant to Section 31-3908, Idaho Code. (4-11-06)
- 012. -- 015. (RESERVED)**
- 016. GRANT ADMINISTRATION.**
- 01. Emergency Communications Grant Fund Source.** The moneys that may be available through the ECGF are from the emergency communications fees placed in the Fund pursuant to Section 31-4819, Idaho Code. (3-29-17)
- 02. Alternate Emergency Communications Grant Fund Sources.** Grants, donations, gifts, and revenues from other sources may augment the ECGF amount available when any limitations or requirements related to the use of such revenues are consistent with these rules. (4-11-06)
- 03. Other Emergency Communications Grants.** The Commission may secure grants from federal, foundation, or other sources. When these sources place requirements or restrictions that are contrary to these rules, the Commission may establish a separate application, disbursement, or documentation program as appropriate. (4-11-06)
- 04. Emergency Communications Fund Grant.** The amount of funds available through ECGF will be determined annually by the Commission in accordance with Section 31-4819, Idaho Code. (3-29-17)
- 017. -- 020. (RESERVED)**
- 021. GRANT CYCLE.**
- 01. Application Availability.** The Commission shall make an application and guidance available no later than July 1 of each year. (4-11-06)
- 02. Application Period.** The Applicant shall have until July 31 to complete and submit the application to the Commission. (4-11-06)
- 03. Application Evaluation Period.** Prior to September 15, the Commission and, if applicable, a grant subcommittee, shall evaluate the applications received. (4-11-06)
- 04. Award Notification.** Prior to October 31, the Commission shall issue notification to every Applicant regarding the disposition of its grant request. (4-11-06)
- 05. Grant Disbursement.** Grant disbursement shall occur prior to April 30. (4-11-06)
- 06. Deadline for Return of Funds.** All unused grant funds must be returned by the Applicant no later than May 31. (4-11-06)
- 022. -- 025. (RESERVED)**
- 026. APPLICATION REQUIRED.**
A completed application must be submitted by the Applicant on or before the conclusion of the application period

specified in Section 021 of these rules in order to be considered during the Grant Cycle. (4-11-06)

01. Application Frequency. Only one (1) application per Consolidated Emergency Communication Center may be filed in any Grant Cycle. (4-11-06)

02. Required Information. The Applicant must provide the Commission with information, including: (4-11-06)

a. Description of proposed equipment purchases; (4-11-06)

b. Type, quantity, and purpose of similar equipment presently in use by the Applicant; (4-11-06)

c. Age and condition of equipment being replaced, if applicable; (4-11-06)

d. Documentation of one (1) or more vendor price quotes for all proposed equipment purchases; (4-11-06)

e. Prioritization by the Applicant of equipment requested when the application requests funding for two (2) or more items; (4-11-06)

f. Operating budget; (4-11-06)

g. All funding sources and revenue generated by source; (4-11-06)

h. Amount of emergency communications fee charged in accordance with Title 31, Chapter 48, Idaho Code; (4-11-06)

i. Resident population within the Applicant response area in Idaho; (4-11-06)

j. Migrant and tourist population within the Applicant response area in Idaho; (4-11-06)

k. Number and name(s) of law enforcement, fire, and emergency medical service organizations for which the Consolidated Emergency Communications Center serves as the primary 911 agency; (4-11-06)

l. County, city, or Taxing District endorsement(s); (4-11-06)

m. Federal Tax Identification Number and DUNS Number (Dun & Bradstreet Data Universal Numbering System); (4-11-06)

n. Contact person for verification of information; and (4-11-06)

o. Narrative description of need. (4-11-06)

03. Incomplete Application. An application missing required information may be excluded from consideration for an award. (4-11-06)

04. Application Purpose. The grant application and any attachments submitted by the Applicant shall be the primary source of information for awarding a grant. (4-11-06)

05. Applicant's Request for Amendment. An Applicant may amend its application after the application period has ended by sending both a written request and the proposed application amendment to the ECC grant subcommittee. The Applicant shall provide detailed reasons for the Applicant's request for amendment. The ECC grant subcommittee shall review the Applicant's request for amendment and make a recommendation to the ECC concerning the request. The ECC shall either approve or deny the Applicant's request for amendment by vote. The ECC's decision is final. If the ECC does not use a grant subcommittee, an Applicant's request for amendment shall be submitted directly to the ECC. (3-29-17)

a. An amended application can be submitted by any Applicant before award notifications have been issued. After award notifications have been issued, an amended application can only be submitted by an Applicant who has been awarded a grant for the applicable grant cycle. (3-29-17)

b. If an Applicant’s request for amendment is approved before grant award notifications have been issued, the Applicant’s amended application and not the Applicant’s original application shall be considered for award eligibility. If an application amendment is approved after grant award notifications have been issued, the Applicant’s award amount will not increase and may decrease depending on the needs specified in the amended application. (3-29-17)

027. -- 030. (RESERVED)

031. AWARD ELIGIBILITY REQUIREMENTS.

To be considered for an award, an Applicant must meet all of the following requirements: (4-11-06)

01. Consolidated Emergency Communication Center Services. The Applicant must be a Consolidated Emergency Communication Center collecting emergency communications fees in accordance with Title 31, Chapter 48, Idaho Code, delivering or seeking to deliver Consolidated Emergency Communication services. (4-11-06)

02. Allowable Equipment. Only equipment identified as allowable in the application guidance may be purchased with grant funds. (4-11-06)

03. Applicable Law. The Applicant must be in compliance and must warrant to continue to be in compliance with applicable law, including but not limited to Section 31-4804(5), Idaho Code. (4-11-06)

04. Bid Laws. The Applicant must agree to follow all applicable bid laws in the acquisition of any equipment paid for with grant funds. (4-11-06)

05. Use of Funds. The Applicant must agree to use any grant funds in strict compliance with the grant terms and agree to provide written documentation or proof of expenses to the Commission as required by the grant terms. (4-11-06)

032. -- 035. (RESERVED)

036. AWARD RECOMMENDATION.

If the Commission uses a grant subcommittee, the Commission shall request a recommendation from the grant subcommittee regarding the distribution of grant funds. (4-11-06)

01. Assessment and Validation of Need. The grant subcommittee, if used, shall review grant applications prior to making a recommendation about awards. (4-11-06)

02. Contingency Awards. The grant subcommittee, if used, may make contingency award recommendations in the event that other awards are withdrawn as described in Section 047 of these rules. (4-11-06)

03. Commission Approval. Whether or not a grant subcommittee is used, all awards must be approved by the Commission. If no grant subcommittee is used, the Commission shall review the applications and may make provision for contingency awards, as set forth above. (4-11-06)

037. -- 040. (RESERVED)

041. CRITERIA FOR EQUIPMENT.

The following weighted criteria shall be used to evaluate applications for equipment, with maximum weight available for each criterion as indicated. Greater value will be assigned to conditions indicating greater need for each criterion: (4-11-06)

01. Applicant Equipment Age. The age of similar equipment currently in use by the Applicant; value

= fifteen (15). The application demonstrating older equipment will be assigned greater value. The application demonstrating replacement of older equipment with NG911/I3 compliant equipment will be assigned a greater value. (3-29-17)

02. Applicant Equipment Availability. Similar equipment currently in use by the Applicant; value = fifteen (15). The application demonstrating lack of similar equipment will be assigned greater value; the application demonstrating no access to similar equipment will be assigned the maximum value. (4-11-06)

03. Anticipated Use. An estimate of the frequency of use for the equipment; value = fifteen (15). The application demonstrating a higher ratio of dispatch per capita will be assigned greater value. (4-11-06)

04. Duration of Use. An estimate of the length of time the equipment would be used, expressed as a mean time; value = fifteen (15). The application demonstrating a greater duration of use will be assigned greater value. (4-11-06)

05. Fiscal Resource Base. The proportion of operating budget supported by tax revenue; value = ten (10). The application demonstrating less revenue from taxes expressed as a percent of total revenue for the most recent year will be assigned greater value. (4-11-06)

06. City, County and Taxing District Endorsement. The proportion of Idaho cities, counties and Taxing Districts within which the Applicant's primary service area occurs that endorse the application; value = five (5). The application demonstrating a larger percent of endorsements will be assigned greater value. (4-11-06)

07. Population. The number of people residing in the Consolidated Emergency Communications Center's service area; value = five (5). The application demonstrating a greater number of people will be assigned greater value. (4-11-06)

08. Square Mileage. The area served by the Consolidated Emergency Communications Center; value = fifteen (15). The application demonstrating a greater square mileage will be assigned greater value. (4-11-06)

09. Number of Law Enforcement, Fire and Emergency Medical Service Agencies Dispatched. Value = ten (10). The application demonstrating a higher number of law enforcement, fire and emergency medical service agencies will be assigned greater value. (4-11-06)

10. Narrative. The need for and lack of availability of funds from other sources as documented by the Applicant; value = twenty (20). The application demonstrating a greater need for and lack of available funds will be assigned greater value. The application seeking to share resources and equipment with other 911 service areas (e.g., host remote) will be assigned a greater value. (3-29-17)

042. -- 045. (RESERVED)

046. UNUSED GRANT FUNDS.

All grant funds not expended for costs associated with the Applicant's award shall be returned by May 31 of the Grant Cycle. (4-11-06)

047. WITHDRAWAL, DISCONTINUANCE, ASSIGNMENT.

01. Withdrawal. Any Applicant may withdraw or forfeit an application at any time. (4-11-06)

02. Ability to Compete. The withdrawal of an application does not affect the Applicant's ability to reapply in a subsequent Grant Cycle. (4-11-06)

03. Discontinuance. The Commission may discontinue the grant award or approval process if any of the following occurs: (4-11-06)

a. The chief administrative official of the Applicant or his designee submits a notice of withdrawal in written form to the Commission. (4-11-06)

b. The Applicant does not provide required documentation during the award or approval process. (4-11-06)

c. The Commission determines the Applicant is out of compliance with any award eligibility requirements. (4-11-06)

04. No Right of Assignment. The Applicant may not assign any award to another Applicant or another Consolidated Emergency Communications Center. (4-11-06)

048. FRAUDULENT INFORMATION ON GRANT APPLICATION.

Providing false information on any application or document submitted under these rules is grounds for declaring the Applicant ineligible. Any and all funds determined to have been acquired on the basis of fraudulent information must be returned to the Commission. (4-11-06)

049. -- 999. (RESERVED)

**IDAPA 15
TITLE 06
CHAPTER 04**

15.06.04 – RULES GOVERNING THE IDAHO YOUTH CHALLENGE PROGRAM

000. LEGAL AUTHORITY.

This chapter is adopted under the authority of Sections 46-804 and 46-805, Idaho Code. (3-20-14)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the IDAPA 15.06.04, “Rules Governing the Idaho Youth Challenge Program.” (3-20-14)

02. Scope. These rules establish the criteria for student enrollment in the Idaho Youth Challenge Program. (3-20-14)

002. WRITTEN INTERPRETATIONS.

The Idaho Military Division does not rely on any interpretative statements with regard to this chapter. (3-20-14)

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for administrative appeals. (3-20-14)

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into this chapter. (3-20-14)

005. OFFICE ADDRESS, OFFICE HOURS, TELEPHONE AND FACSIMILE NUMBERS, AND WEBSITE ADDRESS.

01. Address. The main office of the Idaho Military Division is located at 4040 West Guard Street, Gowen Field, Building 600, Boise, Idaho 83705. (3-20-14)

02. Office Hours. Office hours are weekdays, 8:00 a.m. to 4:30 p.m., excluding holidays. (3-20-14)

03. Telephone. The telephone number is (208) 422-3000. The facsimile number is (208) 422-3040. (3-20-14)

04. Website. The website address is <http://www.idaho.ang.af.mil>. (3-20-14)

006. PUBLIC RECORDS ACT COMPLIANCE.

All records relative to this chapter are public records except to the extent such records are by law exempt from disclosure. (3-20-14)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Participant. A participant is a person who meets all of the participant selection criteria for the Youth Challenge Program and is selected to participate in the Program from among the eligible applicants. (3-20-14)

02. Program. The National Guard Youth Challenge Program is a community-based program that leads, trains and mentors at-risk youth so that they may become productive citizens in America's future. (3-20-14)

011. -- 099. (RESERVED)

100. PARTICIPANT SELECTION CRITERIA.

01. Age. A Participant must be between the ages of sixteen (16) to eighteen (18) years of age at the

time of entry into the Program. (3-20-14)

02. Residency. A Participant must be a citizen or legal resident of the United States and resident of the state of Idaho. (3-20-14)

03. Physical and Mental Requirements. (3-20-14)

a. A Participant must be physically and mentally capable to participate in the Program in which enrolled with reasonable accommodation for physical and other disabilities. (3-20-14)

b. Selected Participants shall receive a physical examination in conjunction with their entry into the Program. Such examination shall be sufficiently complete so that a conclusion may be reached as to the Participant's ability to complete the program with reasonable accommodation for physical and other disabilities. The examination may also include testing for drug or substance abuse and pregnancy insofar as directed by Department of Defense instructions and insofar as such testing does not conflict with state law. (3-20-14)

04. Additional Requirements. In addition to the above requirements, a Participant must meet the following criteria to be eligible for the Program. (3-20-14)

a. A Participant must be a high school dropout. A high school dropout is defined as an individual who is no longer attending any school and who has not received a secondary school diploma or certificate from a program of equivalency for such diploma. (3-20-14)

b. A Participant must be unemployed or underemployed at the time an application is submitted. (3-20-14)

c. A Participant must not currently be on parole or probation for anything other than juvenile status offenses. (3-20-14)

d. A Participant must not be serving time or awaiting sentencing. (3-20-14)

e. A Participant must not be under indictment, charged with or convicted of a crime that is considered a felony when charged as an adult. (3-20-14)

f. A Participant must be free from use of illegal drugs or substances and free from the illegal use of drugs or substances. (3-20-14)

101. GOVERNING BOARD.

The Governing Board will consist of the Adjutant General, the Director of the Youth Challenge Program, and three (3) at large members appointed by the Adjutant General. Each member of the Governing Board serves at the pleasure of the Adjutant General. (3-20-14)

102. BOARD OF ADMISSIONS.

The Board of Admissions will consist of the Director of the Youth Challenge Program, the Deputy Director of the Youth Challenge Program, the Youth Challenge Academy Principle, the Youth Challenge Academy Commandant, the Youth Challenge Medical Liaison, the Youth Challenge Program Coordinator, and one (1) at large member appointed by the Adjutant General. Each member of the Governing Board serves at the pleasure of the Adjutant General. (3-20-14)

103. -- 999. (RESERVED)

**IDAPA 15
TITLE 06
CHAPTER 05**

MILITARY DIVISION – OFFICE OF EMERGENCY MANAGEMENT

15.06.05 – HAZARDOUS SUBSTANCE RESPONSE RULES

000. LEGAL AUTHORITY (RULE 0).

This chapter is adopted under the authority of Section 39-7101, Idaho Code. (3-23-10)

001. TITLE AND SCOPE (RULE 1).

01. Title. The title of this chapter is the IDAPA 15.06.05, “Hazardous Substance Response Rules.” (3-23-10)

02. Scope. The scope of this chapter is creation of local emergency response authorities and regional response teams; the location and jurisdiction of regional response teams; liability for incident response costs; notification to local and state emergency response authorities of a hazardous substance incident; call-out procedure for emergency response agencies; and cost recovery and cost reimbursement procedures for emergency response agencies. (3-23-10)

002. WRITTEN INTERPRETATIONS (RULE 2).

The Idaho Hazardous Materials/WMD Incident Command and Response Support Plan, which is prepared and implemented by the Idaho Military Division and approved by the legislature pursuant to Section 39-7104(1)(i), Idaho Code. (3-23-10)

003. ADOPTION OF ATTORNEY GENERAL'S IDAHO RULES OF ADMINISTRATIVE PROCEDURE (RULE 3).

IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General,” are adopted for all contested cases before the Military Division and all rulemaking by the Military Division. (3-23-10)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into this chapter. (3-23-10)

005. OFFICE, OFFICE HOURS, MAILING ADDRESS, TELEPHONE NUMBERS (RULE 5).

The office of the Idaho Military Division - Idaho Office of Emergency Management is located at 4040 Guard St., Bldg. 600 Boise, Idaho 83705-5004. Office hours are weekdays, 8:00 a.m. to 4:30 p.m., excluding holidays. The telephone number is (208) 422-3040. The twenty four (24) hour emergency notification number is 800-632-8000 or 208-846-7610. (3-23-10)

006. PUBLIC RECORDS ACT.

These rules are public records and are available for inspection and copying at the division office. (3-23-10)

007. COMMUNICATION WITH MILITARY DIVISION, OFFICE OF EMERGENCY MANAGEMENT (RULE 7).

01. Records Custodian. The Military Division, Office of Emergency Management is the custodian of all records and files in all formal proceedings under these rules and is responsible for service of all orders and notices. Unless otherwise directed by order, the Director, Office of Emergency Management issues all official notices. (3-23-10)

02. Filing. All written communications and documents that are intended to be part of an official Military Division record for a decision in a contested case or a rulemaking must be filed with the Director. Unless otherwise provided by statute, these rules, order or notice, documents are considered filed when received by the Director, not when mailed. (3-23-10)

03. Information. Information concerning proceedings before the Military Division, or the status of any matter of public record is available from the Director, Office of Emergency Management. (3-23-10)

008. -- 009. (RESERVED).

010. DEFINITIONS (RULE 10).

01. Emergency. As used in this chapter, “emergency” means a release or threat of release that, in the reasonable judgment of the local emergency response authority in consultation with the office, threatens immediate harm to the environment or the health and safety of any individual and that requires immediate action for the containment or control of a hazardous or potentially hazardous substance to prevent, minimize or mitigate harm to the public health, safety or the environment that may result if action is not taken. (3-23-10)

02. Emergency Responder. Person affiliated with an emergency response agency who is dispatched to the scene upon notification of a hazardous substance incident. Emergency responders may be local, state, federal or industry personnel who have received appropriate hazardous materials training as defined by OSHA and EPA Regulations. (3-23-10)

03. EPCRA. Emergency Planning and Community Right to Know Act of 1986 (Title III of the Superfund Amendments and Reauthorization Act).. (3-23-10)

04. Hazardous Substance. (3-23-10)

a. Any “hazardous substance” within the scope of section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601(14); (3-23-10)

b. Any hazardous substance within the scope of section 104 of the Federal Hazardous Materials Transportation Act, (HMTA) 49 U.S.C. 1803, and the federal Department of Transportation regulations; (3-23-10)

c. Any extremely hazardous substance within the scope of section 302 of the federal Emergency Planning and Community Right-to-Know Act, (EPCRA) 42 U.S.C. 11002; and (3-23-10)

d. Any explosive or weapon of mass destruction utilized or threatened to be utilized in an act of terrorism, crime, or other threat to public safety. (3-23-10)

05. Hazardous Substance Incident. An emergency circumstance that requires a response by the state emergency response team or the local emergency response agency to monitor, assess and evaluate a release of, or the threat of a release of, a hazardous or potentially hazardous substance. A hazardous substance incident may require containment or confinement, or both, but does not include site cleanup or remediation efforts after the incident commander has determined the emergency has ended. (3-23-10)

06. Hazardous Substance Incident Levels. (3-23-10)

a. Regulatory - A release of a ‘reportable quantity’ or less of regulated hazardous substances that does not require any emergency response on the part of public sector responders. This would include a weapons of mass destruction threat or suspicion that is clearly a hoax without requiring additional analysis. (3-23-10)

b. Level 1 - An incident involving any response, public or private, to an incident involving hazardous substances that can be contained, extinguished, or abated using resources immediately available to the responders having jurisdiction. A weapons of mass destruction threat or suspicion that requires local response to determine whether or not it is life threatening. A Level 1 incident presents little risk to the environment or public health with containment and clean up. (3-23-10)

c. Level 2 - An incident involving hazardous substances that is beyond the capabilities of the first responders on the scene, and may be beyond the capabilities of the public sector response agency having jurisdiction. Level 2 incidents may require the services of a state of Idaho Regional Response Team, or other state/federal

assistance. This would include a weapons of mass destruction (WMD) threat or incident that involves explosives, release of toxic material, release of radioactive material or release of organisms that can be analyzed and stabilized using resources that exist within the state of Idaho. This level may pose immediate and long-term risk to the environment and public health and could result in a local declaration of disaster. (3-23-10)

d. Level 3 - An incident involving weapons of mass destruction/hazardous substances that will require multiple state of Idaho Regional Response Teams or other resources that do not exist within the state of Idaho. These incidents may require resources from state and federal agencies and private industry. Level 3 incidents generally pose extreme, immediate and long-term risk to the environment and public health. (3-23-10)

07. Idaho Hazardous Materials/WMD Incident Command and Response Support Plan. A plan that has the primary purpose of providing effective, coordinated emergency response support to local government by state, federal and private agencies for incidents involving the release of hazardous substances in the state of Idaho. (3-23-10)

a. This plan may be activated independently of the Idaho Emergency Operations Plan. (3-23-10)

b. Authority for implementation of this plan is derived from the Idaho Hazardous Substance Emergency Response Act (Section 39-7101, Idaho Code), the Idaho Environmental Protection and Health Act (Section 39-101 et seq., Idaho Code), the Hazardous Waste Management Act (Section 39-4401 et seq., Idaho Code), Protection from Radioactive Materials (Section 39-3005, Idaho Code) and the Idaho Homeland Security Act of 2004 (Section 46-1001 et seq. Idaho Code). (3-23-10)

08. Idaho Regional Response Teams. Teams authorized by the state of Idaho which are trained and equipped to respond to incidents. These teams are based in local departments and respond outside local jurisdictional boundaries upon approval of the Office of Emergency Management. These teams include Regional Hazardous Materials Response Teams (RRT's) as well as Regional Bomb Squads (RBS's). The Idaho Regional Response Teams are responsible to the local Incident Commander. (3-23-10)

09. Incident Command System (ICS)/National Incident Management System (NIMS). (3-23-10)

a. The Incident Command System (ICS) is a widely used and understood emergency management tool. It is used by local, state, and federal agencies and the military. Use of the ICS for hazardous substance incidents is required by the Emergency Planning and Community Right to Know Act (EPCRA), Occupational Safety and Health Administration (OSHA) rules, and the National Fire Protection Association (NFPA). It has been adopted by the National Fire Academy as the model system for the fire service. It is also the policy of the state of Idaho that the ICS will be used in response to hazardous substance incidents. (3-23-10)

b. NIMS is a system mandated by Homeland Security Presidential Directive 5 that provides a consistent nationwide approach for federal, state, local and tribal governments, as well as the private-sector and nongovernmental organizations to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size or complexity. NIMS builds on the ICS and the proven principles of unified command. (3-23-10)

10. Incident Commander. The designated local emergency response official responding to an incident. This person must be fully trained and knowledgeable in the ICS. Normally, the Incident Commander will be the local fire chief or law enforcement officer. A local jurisdiction, based on its local plan and resource assessment, may request that Idaho State Police assume incident command, particularly for incidents on U.S. Interstates and state-numbered routes, including rights-of-way. The Incident Commander shall be in overall charge of all efforts at the scene. (3-23-10)

11. Local Emergency Planning Committee (LEPC). A committee made up of local officials, citizens, and industry representatives charged with development and maintenance of emergency response plans for the local emergency planning district as per EPCRA requirements. Planning procedures include hazardous substance inventories, compilation and coordination of fixed facility emergency response plans, hazardous substance response training, and assessment of local response capabilities. (3-23-10)

12. Local Emergency Response Authority (LERA). Persons or agencies designated under Section 39-7105, Idaho Code, by the city or county to be the local representatives for hazardous substance incidents. The board of county commissioners will designate by ordinance or resolution a LERA. The governing body will notify the military division and the state communications center within sixty (60) calendar days of their designation. If no LERA has been designated, the Idaho State Police shall be the local emergency response authority. (3-23-10)

13. Regional Response Team (RRT). See Idaho Regional Response Teams. (3-23-10)

14. Reimbursable Costs. The total eligible expenses arising from response to a hazardous substance incident. Such costs generally include, but are not limited to, all state and local government expenses that result from the assessment and emergency phases of the response activity. Emergency response costs do not include clean-up or disposal costs of hazardous substances, except as may be reasonably necessary and incidental to preventing a release or threat of release of a hazardous substance or in stabilizing the emergency response incident. (3-23-10)

15. Responsible Party. Any person who owns, controls, transports, or causes the release, or threat of release of a hazardous substance which is involved in a hazardous substance incident shall be strictly liable for the costs arising out of the response. (3-23-10)

16. Spiller. See Responsible Party. (3-23-10)

17. State Communications. The communications center for state hazardous substance emergency response. State Communications can be reached by calling 1-800-632-8000 or 208-846-7610. Notification of State Communications is the first step in initiating the Idaho Hazardous Materials/WMD Incident Command and Response Support Plan. (3-23-10)

18. State Emergency Response Teams. See Idaho Regional Response Teams. (3-23-10)

19. State On-Scene Coordinator (SOSC). To ensure coordination during a significant incident, the state of Idaho will provide a State On-Scene-Coordinator (SOSC). The SOSC will facilitate the formation of a unified command during a significant incident. Under Unified Command, the Idaho SOSC can assist by acquiring resources, advising on response issues, and coaching the jurisdiction in overall scene management. The SOSC will coordinate with responding state agencies and be the principal state spokesperson in the unified command as an advocate for all state interests. In this role, the SOSC effectively represents the interests of the state of Idaho and its citizens. The Idaho SOSC will be appointed by the Director, Office of Emergency Management or his designee. (3-23-10)

011. ABBREVIATIONS (RULE 11).

01. A.G. Office of the State Attorney General. (3-23-10)

02. CERCLA. Comprehensive Environmental Response, Compensation, and Liability Act. (3-23-10)

03. CFR. Code of Federal Regulations. (3-23-10)

04. EPCRA. Emergency Planning and Community Right-to-Know Act. (3-23-10)

05. HMTA. Hazardous Materials Transportation Act. (3-23-10)

06. ICS. Incident Command System. (3-23-10)

07. LEPC. Local Emergency Planning Committee. (3-23-10)

08. LERA. Local Emergency Response Authority. (3-23-10)

09. NIMS. National Incident Management System. (3-23-10)

10. NFPA. National Fire Protection Act. (3-23-10)

- 11. **OEM.** Office of Emergency Management. (3-23-10)
- 12. **OSHA.** Occupational Safety and Health Administration. (3-23-10)
- 13. **RBS.** Idaho Regional Bomb Squads. (3-23-10)
- 14. **RRT.** Idaho Regional Response Teams. (3-23-10)
- 15. **SOSC.** State On-Scene Coordinator. (3-23-10)
- 16. **WMD.** Weapons of Mass Destruction. (3-23-10)

012. -- 099. (RESERVED).

100. REGIONAL RESPONSE TEAMS, DESIGNATION, LOCATION, JURISDICTION, ACTIVATION, LIABILITY (RULE 100).

01. Designation of Regional Response Teams. Each RRT shall be capable of responding to hazardous substance emergencies within their jurisdiction or, when approved by the state of Idaho Military Division, Office of Emergency Management, in their region, or other state regions. (3-23-10)

02. Location of Regional Response Teams.

Area of Idaho	Primary Response Counties	Designation	Team Location – Headquarters
Region 1	Benewah, Bonner, Boundary, Kootenai, Shoshone	RRT1 Spokane Bomb Squad	Kootenai County Fire and Rescue Spokane Police and Sheriff's Office
Region 2	Clearwater, Idaho, Latah, Lewis, Nez Perce	RRT2 Explosive response covered by Spokane and RBS3	Lewiston Fire Department
Region 3	Adams, Canyon, Gem, Owyhee, Payette, Washington (Gem response may come from Boise for access time)	RRT3 RBS3	Nampa/Caldwell Fire Department Nampa Police Department
Region 4	Ada, Boise, Camas, Elmore, Valley (Gem response for access time)	RRT4 RBS4	Boise Fire Department Boise Police Department
Region 5	Blaine, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls (Minidoka and Cassia may come from Southeast for access time)	RRT 3, 4, 6, 7 RBS5	RRTs 3, 4, 6, 7 Twin Falls Police Department
Region 6	Bannock, Bear Lake, Butte, Bingham, Caribou, Franklin, Oneida, Power (Minidoka and Cassia responses for access time)	RRT6 Explosive response covered by RBS5 and RBS7	Pocatello Fire Department

Area of Idaho	Primary Response Counties	Designation	Team Location – Headquarters
Region 7	Bonneville, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, Teton	RRT7 RBS7	Idaho Falls Fire Department Idaho Falls Police Department

(3-23-10)

03. Primary Jurisdiction of Regional Response Teams. See Subsection 100.02 of these rules. (3-23-10)

04. Activation of Regional Response Teams. (3-23-10)

a. The party requesting the assistance must: (3-23-10)

i. Contact State Communications at 1-800-632-8000, or (208-846-7610). (3-23-10)

ii. State their name; (3-23-10)

iii. State their location; (3-23-10)

iv. Provide a description of the incident; and (3-23-10)

v. Provide a description of the type of assistance requested. (3-23-10)

b. RRTs must be activated by the Military Division when responding outside their jurisdiction by calling Idaho State Communications Center at 800-632-8000, or (208) 846-7610. This will initiate a conference call, if appropriate, with the appropriate state and local agencies. (3-23-10)

c. If the request is for assistance with a drug lab response, the requester must call State Communications and provide the following: (3-23-10)

i. That the request is for a drug lab response; (3-23-10)

ii. The location, which must include, at a minimum, the county and city; (3-23-10)

iii. The type of assistance requested; and (3-23-10)

iv. The nature of the chemicals released. (3-23-10)

d. State communications will then page the OEMHS Haz Mat Duty Officer, provide the information, and request authorization for the RRT to respond. Upon authorization, State Communications will notify the appropriate RRT of the request for assistance and the authorization to respond. (3-23-10)

05. Reimbursable Costs -- Hazardous Substances. (3-23-10)

a. State emergency response teams and local emergency response agencies may submit claims within sixty (60) days of the termination of the incident, to the Military Division for reimbursement. Eligible documented costs, incurred as a result of their response to a hazardous substance incident, may be submitted. (3-23-10)

b. State emergency response teams and local emergency response agencies may submit claims within sixty (60) days of the termination of the incident, to the Military Division for reimbursement. The following documented costs, incurred as a result of their response to a hazardous substance incident may be submitted: (3-23-10)

- i. Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the response; (3-23-10)
 - ii. Compensation of employees for the time and efforts devoted specifically to the response that are not otherwise provided for in the applicant's operating budget, (e.g., overtime pay for permanent fulltime and other than fulltime employees, recalled personnel or responding when out of jurisdiction); (3-23-10)
 - iii. Rental or leasing of equipment used specifically for the response (e.g., protective equipment or clothing, scientific and technical equipment); (3-23-10)
 - iv. Replacement costs for equipment owned by the applicant that is contaminated beyond reuse or repair, if the applicant can demonstrate that the equipment was a total loss and that the loss occurred as a result of the response (e.g., self contained breathing apparatus irretrievably contaminated during the response); (3-23-10)
 - v. Decontamination of equipment contaminated during the response; (3-23-10)
 - vi. Special technical services required for the incident response (e.g., costs associated with the time and efforts of local and state personnel to recover the costs of response, and of technical experts/specialists not otherwise provided for by the local government); (3-23-10)
 - vii. Medical monitoring, treatment of response personnel, and rehabilitation costs as per 29 CFR 1910, 120; NFPA 1500; and NFPA 1584; and (3-23-10)
 - viii. Laboratory costs for purposes of analyzing samples taken during the response. (3-23-10)
- c. Reimbursement for costs will not exceed the duration of the response. Reimbursements shall only be paid after the military division finds that the actions by the RRT, or the emergency response agency were taken in response to a hazardous substance incident as defined in this chapter. (3-23-10)

06. Liability for Response Costs - Non-Hazardous Substances. (3-23-10)

- a. Liability for response costs for spills of non-hazardous substances shall be the responsibility of the spiller or transporter of such material when the spiller or transporter failed to comply with laws or regulations of the state or federal government which would have facilitated identification of the product as a non-hazardous substance. (3-23-10)
- b. Liability for response costs to non-hazardous substances shall be the responsibility of the person or entity requesting assistance in all other instances. (3-23-10)

101. -- 199. (RESERVED).

200. LERA (RULE 200).

01. Responsibility of Local Governments for Establishment of LERA. (3-23-10)

- a. LERA means those persons or agencies designated under Section 39-7105, Idaho Code, by the city, or county to be the first response authority for hazardous substance incidents. (3-23-10)
- b. Cities and counties shall designate the LERA for hazardous substance incidents that occur within their respective jurisdictions. Each local governing body shall notify the Military Division and State Communications Center of its designation in writing. Thereafter, any changes in designation shall be communicated to the Military Division and the State Communications Center no later than ten (10) working days before the change becomes effective. (3-23-10)
- c. The governing body of each city shall designate by ordinance or resolution a LERA for hazardous substance incidents occurring within the corporate limits of the city. A city may designate the county as its LERA and participate in the county plan for hazardous substance incident response by notifying the county, the Military

Division and the State Communications Center of such designation in writing. (3-23-10)

d. The board of county commissioners of each county shall designate by ordinance or resolution a LERA for hazardous substance incidents occurring within the unincorporated areas of the county. (3-23-10)

e. If no LERA having the ability to respond to a hazardous substance incident exists within a city or county, or if a political subdivision is unable to obtain the services of a LERA by means of a mutual aid agreement or contract, the Idaho State Police will be the LERA. (3-23-10)

02. LERA Powers and Duties. (3-23-10)

a. Respond: The LERA will provide response to all hazardous substances incidents in their jurisdiction and to any incidents that overlap jurisdictions in a fashion consistent with the Idaho Hazardous Materials/WMD Incident Command and Response Support Plan except as provided in a local emergency response plan. (3-23-10)

b. Initiate State Plan: The LERA may request state assistance consistent with the Idaho Hazardous Materials/WMD Incident Command and Response Support Plan through the State Communications Center. (3-23-10)

c. Right to Claim Reimbursement: The LERA may claim reimbursement or costs associated with a hazardous substance emergency directly from the spiller, shipper, transporter, property owner, occupant or party responsible for the hazardous substance incident or emergency. The LERA may, in the alternative, if the incident was reported to the State, submit claims to the Military Division within sixty (60) days after the termination of an incident for the reimbursement of documented costs listed in Section 39-7109, Idaho Code, incurred as a result of response to a hazardous substance incident. Reimbursement claims for those costs may not exceed the duration of the response. The LERA must provide a written incident report and any backup documentation to the Military Division containing the following information: (3-23-10)

- i. Date and time of incident; (3-23-10)
- ii. Type of incident; (3-23-10)
- iii. Level of response required; (3-23-10)
- iv. Response action taken; (3-23-10)
- v. Time the incident commander declared the incident ended; (3-23-10)
- vi. Follow-up information; and (3-23-10)
- vii. Any other pertinent information such as responsible party etc. (3-23-10)

d. Local Planning: The LERA, as a member of the LEPC, should be an active participant in their jurisdictions emergency planning process. (3-23-10)

03. Training. Personnel responding to a hazardous substance emergency shall be trained, at a minimum, to the Hazardous Substance Operations level. In addition, all personnel must have training in the ICS and the NIMS set forth in the Idaho Hazardous Materials/WMD Incident Command and Response Support Plan. (3-23-10)

04. LERA Notification. (3-23-10)

a. Any spiller, shipper, transporter, property owner, occupant or other person with knowledge of a hazardous substance incident shall notify the LERA of any spill or potential spill. (3-23-10)

b. Notification of the LERA may be through the local dispatch authorities or through the State

Communications Center at 800-632-8000, or (208) 846-7610. The State Communications Center shall notify the Local Authority and the Military Division Haz Mat Duty Officer. (3-23-10)

c. The spiller, shipper, transporter, property owner, occupant or other person with knowledge of a hazardous substance incident notifying the LERA and State Communications Center shall provide their: (3-23-10)

i. Name; (3-23-10)

ii. Address and telephone number; (3-23-10)

iii. An address and telephone number where they can be reached for the duration of the incident. (3-23-10)

d. Such person shall remain available to the incident commander throughout the duration of the incident. (3-23-10)

201. -- 299. (RESERVED).

300. COST REIMBURSEMENT (RULE 300).

01. Submission of Claims and Forms. State RRTs and local emergency response agencies may submit claims within sixty (60) days of the termination of the incident to the State of Idaho, Military Division, for reimbursement of documented and reimbursable costs incurred as a result of their response to a hazardous or potentially hazardous substance incident. Reimbursable costs are those set forth in Section 39-7109, Idaho Code. (3-23-10)

02. Limitations for Seeking Reimbursement, Acceptance of Claims. Claims for reimbursement shall be submitted to the Military Division within sixty (60) days after termination of the hazardous substance incident for the State's determination of payment. Termination of the incident occurs when the Incident Commander declares the incident terminated. The Military Division shall review the costs submitted and notify the response agency or agencies as to which costs disqualify for reimbursement within thirty (30) days of receipt. (3-23-10)

03. Claims Against Spiller or Other Responsible Party. (3-23-10)

a. Upon receipt and review of claims for reimbursement within sixty (60) calendar days after close of incident, the Military Division will compile a thirty (30) calendar day demand letter to the responsible party to be sent certified mail, as well as standard mail, with a copy of the complete packet. (3-23-10)

b. If responsible party does not respond or submit payment within thirty (30) calendar days of first letter, a ten (10) calendar day demand letter will be sent certified mail. (3-23-10)

c. If the responsible party has not responded to the ten-day letter; within ten (10) calendar days, a packet will be assembled for the A.G. This packet will include the entire file, and a letter to the A.G. explaining the steps taken and requesting their assistance in collecting the costs. (3-23-10)

d. If the responsible party does not respond to the A.G., upon their recommendation, the packet will be submitted to a Collection Agency. If the incident is submitted to a collection agency, the responsible party will incur additional costs. (3-23-10)

04. Cost Recovery, Deficiency Warrants. The Military Division shall be responsible for recovering documented and reimbursable costs incurred from the spiller. If a spiller is unknown, cannot be located, or refuses to pay upon demand, the Military Division will make recommendations as to payment to the Board of Examiners within one hundred twenty (120) days after termination of the hazardous substance incident. The Board of Examiners may authorize the issuance of deficiency warrants for the purpose of reimbursing reasonable and documented costs associated with emergency response actions taken by response agencies. (3-23-10)

05. Civil Actions. It shall be the duty of the A.G. to commence any civil action brought by the Military

Division pursuant to nonpayment from a spiller. At the request of the Military Division, a political subdivision of the state, or a local governmental entity that has responded to or contained a hazardous substance incident, the A.G. may commence a civil action on their behalf. (3-23-10)

301. DUTY TO COOPERATE.

01. Responding Agencies. Local emergency response authorities, first responders, and regional response teams shall cooperate with the Military Division and the A.G. in collecting and securing payment from the spiller or other responsible party. (3-23-10)

- 02. Cooperation Provided.** Such cooperation includes, but shall not be limited to: (3-23-10)
- a. Allowing lawsuits to be filed in the name of the local jurisdiction, LERA, or regional response team; (3-23-10)
 - b. Providing testimony and assistance in preparing for trial; (3-23-10)
 - c. Investigation; (3-23-10)
 - d. The collection of evidence, including securing photographs or videotape of the spill site; and (3-23-10)
 - e. Providing relevant test data. (3-23-10)

302. -- 999. (RESERVED).

**IDAPA 15
TITLE 06
CHAPTER 06**

MILITARY DIVISION – OFFICE OF EMERGENCY MANAGEMENT

15.06.06 – RULES GOVERNING USE OF DISASTER EMERGENCY ACCOUNT FUNDS

000. LEGAL AUTHORITY.

This chapter is adopted under the authority of Section 46-1027, Idaho Code. (3-29-17)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 15.06.06, “Rules Governing Use of Disaster Emergency Account Funds.” (3-29-17)

02. Scope. The scope of this chapter is to govern the expenditure of funds from the Disaster Emergency Account. (3-29-17)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Division may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. Any such documents are available for public inspection and copying at the Division office. (3-29-17)

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for administrative appeals of the procedures set forth in this chapter. (3-29-17)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into this chapter. (3-29-17)

005. OFFICE, OFFICE HOURS, MAILING ADDRESS, TELEPHONE NUMBERS.

The office of the Idaho Military Division-Office of Emergency Management is located at 4040 Guard St., Bldg. 600 Boise, Idaho 83705-5004. Office hours are weekdays, 8:00 a.m. to 4:30 p.m., excluding holidays. The telephone number is (208) 422-3040. The twenty four (24) hour emergency notification number is (800) 632-8000 or (208) 846-7610. (3-29-17)

006. PUBLIC RECORDS ACT.

These rules are public records and are available for inspection and copying at the Division office. (3-29-17)

007. – 009. (RESERVED)

010. DEFINITIONS

01. Mitigation. Projects funded under the authority of the Stafford Act aimed at reducing the loss of life and property that might occur during a disaster by taking calculated measures to lessen the impact of future disasters. (3-29-17)

02. Recovery. Actions taken to return a disaster-affected area to a normal or safer condition following the declaration of a state of disaster emergency. (3-29-17)

011. – 099. (RESERVED)

100. STATE DISASTER EMERGENCY ACCOUNT.

01. Availability. In accordance with Section 46-1005A(1), Idaho Code, non-federal share contributions

from the state disaster emergency account shall only be available to a public entity included in a state disaster declaration. (3-29-17)

02. Mitigation. State disaster emergency account funds used for mitigation shall be limited to projects that are directly tied to recovery from the disaster. A project is not directly tied to the recovery from the disaster unless the need for the project directly arose from the event(s) which led to the disaster declaration. (3-29-17)

03. Cost Share. In accordance with Section 46-1008(6), Idaho Code, when assistance is available, non-state recipients shall be required to pay up to forty percent (40%) of the non-federal cost share incurred by the non-state recipient. For the purpose of this section, non-state recipient means a recipient that is not the state of Idaho. (3-29-17)

101. – 999. (RESERVED)