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IDAPA 15
TITLE 13
CHAPTER 02

MILITARY DIVISION - BUREAU OF HOMELAND SECURITY

15.13.02 - HAZARDOUS SUBSTANCE RESPONSE RULES

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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 15.13.02, "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 ADMINISTRATAIVE 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-Bureau of Homeland Security 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, BUREAU OF HOMELAND SECURITY (RULE 7).

01. Records Custodian. The Military Division, Bureau of Homeland Security 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, Bureau of Homeland Security 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, Bureau of Homeland Security. (3-23-10)

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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 bureau, 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

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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 Bureau of Homeland Security. 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

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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, Bureau of Homeland Security or his designee. (3-23-10)

011. ABBREVIATIONS (RULE 11).

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

02. **BHS**. Idaho Bureau of Homeland Security. (3-23-10)

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

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

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

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

07. **ICS**. Incident Command System. (3-23-10)

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

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

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

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

12. **OSHA**. Occupational Safety and Health Administration. (3-23-10)

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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**. There shall be Regional Response Teams designated by the state of Idaho, Military Division. Each regional response team shall be capable of responding to hazardous substance emergencies within their jurisdiction or, when approved by the state of Idaho, Military Division, Bureau of Homeland Security, 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	Regional Response Team 1(RRT1)	Kootenai County Fire and Rescue
		Spokane Bomb Squad	Spokane Police and Sheriff's Office
Region 2	Clearwater, Idaho, Latah, Lewis, Nez Perce	Regional Response Team 2 (RRT2)	Lewiston Fire Department
		Explosive response covered by Spokane and RBS3	
Region 3	Adams, Canyon, Gem, Owyhee, Payette, Washington, (Gem response may come from Boise for access time.)	Regional Response Team 3 (RRT3)	Nampa/Caldwell Fire Department
		Regional Bomb Squad 3 (RBS3)	Nampa Police Department
Region 4	Ada, Boise, Camas, Elmore, Valley, (Gem response for access time.)	Regional Response Team 4 (RRT4)	Boise Fire Department
		Regional Bomb Squad 4 (RBS4)	Boise Police Department
Region 5	Blaine, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls, (Minidoka and Cassia may come from Southeast for access time.)	Regional Response Team 5 (RRT5)	Magic Valley Emergency Response Team (Primary response apparatus housed in Jerome FD)
		Regional Bomb Squad 5 (RBS5)	Twin Falls Police Department

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Area of Idaho	Primary Response Counties	Designation	Team Location – Headquarters
Region 6	Bannock, Bear Lake, Butte, Bingham, Caribou, Franklin, Oneida, Power, (Minidoka and Cassia responses for access time.)	Regional Response Team 6 (RRT6)	Pocatello Fire Department
		Explosive response covered by RBS5 and RBS7	
Region 7	Bonneville, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, Teton.	Regional Response Team 7 (RRT7)	Idaho Falls Fire Department
		Regional Bomb Squad 7 (RBS7)	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. Regional Response Teams 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 BHS 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

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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 Regional Response Team, 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. LOCAL EMERGENCY RESPONSE AUTHORITIES (RULE 200).

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

a. Local Emergency Response Authority (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

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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 Incident Command System (ICS) and the National Incident Management System (NIMS) set forth in the Idaho Hazardous

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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 Regional Response Teams 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)

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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).

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