

**MEMORANDUM OF UNDERSTANDING
BETWEEN
MOUNTAIN HOME AIR FORCE BASE
AND
THE IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY
AND
THE IDAHO OFFICE OF EMERGENCY MANAGEMENT**

1. **Parties:** The parties to this Memorandum of Understanding (MOU) are the 366th Explosive Ordnance Disposal Flight (366 EOD Flight), of the Civil Engineer Squadron at Mountain Home Air Force Base (MHAFB), a Department of Defense (DoD) military organization, the Idaho Office of Emergency Management (IOEM), and the Idaho Department of Environmental Quality (DEQ). When referred to collectively, the parties will be referred to as the “Parties.”

2. **Background:**

a. The 366 EOD Flight has personnel specially trained to handle all types of explosives, including improvised explosive devices (IED). The 366 EOD Flight provides a critical public service to the citizens of Idaho by conducting immediate response to requests for assistance from law enforcement agencies and other entities responding to emergencies involving explosive substances, such as explosive devices, military ordnance, and explosive chemicals. These situations call for immediate action to abate the safety threat by rendering the item(s) safe in place or removal to a safe location for item(s) to be rendered safe. Any emergency response must be carried out in a manner that minimizes threats to public safety and maximizes the safety of the responder. To this end, DEQ recognizes the necessity for minimization of the overall duration of such operations.

b. U.S. EPA’s Military Munitions Rule (MR) [Volume 62 of the Federal Register (FR) 6622, February 12, 1997] makes it clear that EOD personnel engaged in an explosives or munitions emergency response are exempt from the generator, transporter, treatment, storage, and disposal unit requirements of the Solid Waste Disposal Act [42 United States Code (U.S.C.) Sec 6901, et seq.]. The standards the MR established govern this MOU, whether the Federal or state government is administering the MR or the Solid Waste Disposal Act, in whole or part.

c. Except for providing temporary storage or treatment of explosives to provide emergency life-saving assistance to civilian authorities or to assist law enforcement agencies per established agreements between DoD and the Federal agency concerned, the DoD is prohibited by law (10 U.S.C. 2692) from using DoD installations for the storage or treatment of non-DoD-owned hazardous materials.

3. **Purpose:** This MOU, which addresses the roles and responsibilities of all parties regarding notification responsibilities during emergency response operations, is intended to:

a. Minimize the risk to public safety from 366 EOD Flight operations.

b. Maximize the efficiency, safety, and speed of any explosive treatment or retrieval operation.

c. Establish a framework for mutual assistance and consultation among the parties with respect to 366 EOD Flight explosives or munitions emergency response operations.

4. Scope: This MOU applies to 366 EOD Flight explosive or munitions response operations within the State of Idaho. This includes both military munitions and explosives response under Immediate Response Authority and non-military munitions and explosives IAW AFI 32-3001, *Fire Emergency Services (FES) Program*, paragraphs 3.1.4. and 7.2.

5. Definitions:

a. Explosives or Munitions Emergency. A situation, which involves the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, IEDs, post rendered-safe hazardous components, other potentially explosive material or devices, or other potentially harmful military munitions or devices, that creates an actual or potential imminent threat to human health, to include public safety, or the environment, to include property, as determined by an EOD specialist. The EOD specialist may determine that such situations require immediate and expeditious action to control, mitigate, or eliminate the threat.

Post rendered-safe hazardous components are components that are left over after an explosive device has been disrupted. Most of the procedures used by EOD specialists will disrupt or separate components of an explosive device. Usually render-safe procedures do not dispose of or explode the hazardous components. Therefore the hazardous components from the original device will still be present but in a different configuration or state. These hazardous components still pose a threat and need to be treated appropriately.

b. Explosives or Munitions Emergency Response. All immediate response activities by an EOD response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosive or munitions emergency. An explosives or munitions emergency response may include in-place render safe procedures, treatment or destruction of the explosives or munitions, or the transport of the items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance does not terminate the explosives or munitions emergency response. Explosives or munitions emergency response can occur on either private or public lands and are not limited to responses to Resource Conservation and Recovery Act (RCRA) facilities.

The State of Idaho Incident Response levels are assigned through the Idaho Department of Health and Welfare, Idaho State Emergency Medical Services (EMS) Communications Center (StateComm) in accordance with the *Idaho Hazardous Materials / Weapons of Mass Destruction Incident Command and Response Support Plan (State Plan)*, and are different from the MR

Incident Response levels and the DoD Incident Response levels as listed below:

(1) **State of Idaho Incident Level 1 Response.** An incident involving any public or private sector response to hazardous materials that can be contained, extinguished, and/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 and/or public health with containment and clean up.

(2) **State of Idaho Incident Level 2 Response.** An incident involving hazardous materials 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. Level 2 Incidents cover weapons of mass destruction threats or incidents that involve 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. Level 2 incidents may pose immediate and/or long-term risk to the environment and/or public health and could result in a local declaration of disaster.

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

(4) **Military Munitions Rule Level 1 Response.** Immediate response to situations where explosives or munitions are not properly secured (or under military control if military munitions) and thus threaten or potentially threaten human health and safety, the environment, or property. When extenuating circumstances exist, e.g., adverse weather, nightfall, or safety considerations, delay actions necessary to terminate an explosives or munitions emergency, the response will be delayed until the necessary action(s) can be accomplished. EOD or Technical Escort Unit (TEU) personnel must ensure explosives or munitions are in a safe and secure environment.

(5) **Military Munitions Rule Level 2 Response.** Response actions to situations involving explosives or munitions which pose an imminent and substantial danger to human health and safety, the environment, or property, but for which response actions may be temporarily delayed without compromising safety or increasing risk. When EOD or TEU support is not required during a Level 2 response, qualified personnel, such as weapons officers, ammunition handlers, and trained and certified DoD contractors may conduct Level 2 responses, or as directed. In such cases, time may allow for an Emergency Permit to be obtained. The parties acknowledge that explosives or munitions emergencies present unique facts and circumstances and must therefore be evaluated case-by-case. In the absence of full and complete information, which frequently occurs when notice of an explosive or munitions emergency is received and first responded to, emergency response specialists, based on their knowledge, training, and experience, must use their best judgment in assessing risk. It is therefore to be expected that as the response to an

explosive or munitions emergency progresses, a Level 1 response may become a Level 2 response and vice versa.

Note: When extenuating circumstances exist, i.e., adverse weather, nightfall, or safety considerations, delay actions necessary to terminate an explosives or munitions emergency, the response will be delayed until the necessary action(s) can be accomplished. EOD or TEU personnel must ensure explosives or munitions are in a safe and secure environment.

(6) DoD Incident Response Level 1. A Level 1 Emergency could occur anywhere. A Level 1 Emergency requires immediate response activities to eliminate or address the actual or potential imminent threat to life, property, health, or the environment.

(7) DoD Incident Response Level 2. A Level 2 Emergency also poses an actual or potential imminent threat to life, property, health, or the environment, but does not require immediate response activities to eliminate or address the actual or potential imminent threat. Level 2 Emergency response actions can generally be delayed for a reasonable period without adverse impact.

c. Explosive or Munitions Emergency Response Specialist. An individual trained in the identification, handling, treatment, transportation, and destruction of explosives or chemical and conventional munitions. Explosive or munitions emergency response specialists include DoD EOD personnel who are trained to respond to emergency situations involving military munitions and explosives. 366 EOD Flight personnel respond to off-installation incidents involving military munitions with the 366 Fighter Wing Commander (366 FW/CC) or designee's approval. 366 EOD Flight personnel respond to incidents involving non-military explosives with 366 FW/CC or designee's approval.

d. Military Munitions. According to Title 40 of the Code of Federal Regulations Part 260.10 [40 CFR § 260.10], all ammunition products and components produced or used by or for DoD or the U.S. Armed Services for national defense and security, including military munitions under the control of the DoD, the U.S. Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions:

(1) Includes: Confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DoD Components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and any components of such.

(2) Does not include: wholly inert items, improvised explosive devices, and nuclear weapons, devices, and components of such. (However, it does include non-nuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.)

e. 366 EOD Flight response in the public sector is a response to an event that occurs outside of a military installation.

6. Rules of Engagement:

a. The 366 FW/CC will evaluate and then commit as appropriate, available resources in response to requests from civil authorities under circumstances requiring immediate response.

b. The 366 EOD Flight will respond to civilian requests for assistance for incidents occurring within the counties delineated on Attachment 1, MHAFB EOD Area of Responsibility, provided sufficient manpower is available. The closest DoD EOD unit will be utilized for the counties not covered by 366 EOD Flight.

c. Incidents requiring assistance outside of the primary areas of responsibility, in which the closest DoD EOD unit cannot provide assistance, will be handled on a case-by-case basis.

d. In the event of a major accident or response requiring EOD assistance at MHAFB, the 366 EOD Flight representatives will discontinue off-base response procedures in order to return to MHAFB.

e. All requests for off-installation EOD emergency responses in support of civil authorities are initially treated as “immediate response authority” requests under DoD Directive 3025.18, *Defense Support of Civil Authorities (DSCA)* and DoD Instruction 3025.21, *Defense Support of Civilian Law Enforcement Agencies*, until an on-site EOD assessment of the situation determines otherwise.

f. Non-DoD hazardous materials will not be brought to MHAFB unless the situation is clearly an emergency or lifesaving operation or a formal agreement with another Federal agency provides otherwise.

7. Roles and Responsibilities:

a. The 366 Fighter Wing Commander (366 FW/CC) is responsible for:

(1) Authorizing emergency response by military personnel to civil authorities.

(2) Ensuring consideration is given to military readiness before granting support to civil authorities by military personnel.

(3) Providing, consistent with the 366 EOD Flight’s training and military mission requirements, explosives or munitions emergency response or EOD technical support to other Federal agencies and civil authorities, as requested.

(4) Ensuring compliance with the provisions of 10 U.S.C. 2692, which prohibits bringing non-DoD-owned hazardous materials onto DoD installations, except under certain circumstances.

(5) Providing a telephone point of contact for explosives or munitions emergency response or EOD technical support to civil authorities.

(6) Providing information relating to the emergency response necessary for civil authorities to complete post-incident reports, conduct investigations, and other requirements.

(7) Ensuring incident information for civil authority incident reports supporting litigation, are released in compliance with national security, and Freedom of Information Act requirements.

(8) Ensuring explosive or munitions emergency response records are kept for at least three (3) years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition IAW AFI 32-3001, paragraph 3.2.5, Footnote 6.

b. Agencies requesting assistance are responsible for:

(1) Contacting StateComm, 1-800-632-8000 or 208-846-7610, upon identification of an emergency, regarding emergency notification requirements.

(2) Having StateComm contact the 366 FW/CC or designee through the Command Post, 208-828-5800, for emergency response to discovered military munitions.

(3) Requesting EOD emergency response support for explosive incidents other than military munitions from the 366 FW/CC or designee through the Command Post, 208-828-5800, via StateComm, 1-800-632-8000 or 208-846-7610.

(4) Providing support and security to the site as requested by 366 EOD Flight.

(5) Requesting IOEM Hazmat Duty Officer authorization to mobilize to the incident through StateComm, 1-800-632-8000 or 208-846-7610, when a response involving non-military munitions or explosives is required.

(6) Ensuring site and residual contamination remediation at the emergency response site, if the object of the emergency response is a non-military explosive or munitions. [Note: The 366 EOD Flight responding to an explosives or munitions emergency or providing a donor explosive used to destroy the object is not, under any condition or circumstances, responsible for remediation actions. If the objective of the emergency response is for military munitions, then the DoD, the military service, or other Federal agency (e.g., DOE) retains responsibility for any remediation of residual contamination.]

(7) Requesting incident information from the 366 EOD Flight, as necessary, to complete the required reports.

(8) Completing any reports and notifications required by the State of Idaho.

c. Idaho Department of Environmental Quality (DEQ) is responsible for:

(1) Providing a telephone point of contact for emergency response calls through StateComm, 1-800-632-8000 or 208-846-7610.

(2) Determining if a verbal Emergency Permit may be required and expediting the issuance of said permit.

(3) Verbally concurring, through StateComm, that detonation or burning as a means of disposal qualifies for an imminent threat RCRA permit exemption.

8. Response Procedure (State Plan, Tab 15, Military and Civilian Explosive Ordnance Disposal): In conducting emergency responses pursuant to this MOU, the 366 EOD Flight shall meet the following requirements:

a. The 366 EOD Flight, or the party requesting assistance during an incident, will activate Idaho State EMS Communication System (StateComm), 1-800-632-8000 or (208) 846-7610.

b. A conference call including StateComm, the Incident Commander, the 366 EOD Flight representative, the IOEM HazMat Duty Officer, the DEQ Environmental Liaison, the Regional Response Team, and any other appropriate parties will be immediately scheduled to determine the appropriate action. If deemed necessary, the DEQ Environmental Liaison will verbally concur with the 366 EOD Flight representative's determination of an emergency, triggering the immediate response exceptions under IDAPA 58.01.05.008 and .012 [Title 40 of the Code of Federal Regulations (CFR) Sections 264(g)(8) and 270.1(c)(3)], to allow the 366 EOD Flight to treat, store, or detonate explosive devices and/or explosive chemicals.

c. The DEQ Environmental Liaison's verbal concurrence with the emergency determination to allow for detonation as a means of disposal or oral issuance of an Emergency Permit will be documented through specific notation in the StateComm Incident Report, which will constitute written emergency authorization and will be issued to 366 EOD Flight via email by StateComm within 24 hours of the incident.

9. General Provisions

a. Review of Agreement: This MOU will be reviewed triennially in its entirety.

b. Modification of Agreement: This MOU may only be modified by the written agreement of the Parties, duly signed by their authorized representatives.

c. Disputes: Any disputes relating to this MOU will, subject to any applicable law, Executive Order, Directive, or Instruction, be resolved by consultation between the Parties or in accordance with DoDI 4000.19, *Support Agreements*.

d. Transferability: This Agreement is not transferable except with the written consent of the Parties.

e. Entire Agreement: It is expressly understood and agreed that this MOU embodies the entire agreement between the Parties regarding the MOU's subject matter.

f. Duration/Termination: This MOU will remain in effect until amended or terminated by mutual agreement of the parties. Any party may withdraw from the MOU upon 60-days written notice to the other party. The signatories below represent the Agency involved; therefore, re-negotiation and signature upon change of a signatory is not required.

g. Effective Date: This MOU takes effect beginning on the day after the last Party signs.

h. Expiration Date: This Agreement expires nine years after the day the last Party signs.

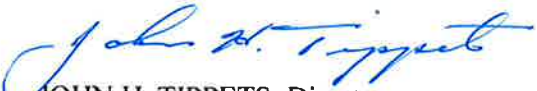
FOR THE UNITED STATES AIR FORCE, MOUNTAIN HOME AIR FORCE BASE

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JEFFERSON J. O'DONNELL, Colonel, USAF
Commander, 366th Fighter Wing

The 13th day of July, 2017

FOR THE STATE OF IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY



JOHN H. TIPPETS, Director
Idaho Department of Environmental Quality

The 5th day of Jan., 2017⁸

FOR THE STATE OF IDAHO OFFICE OF EMERGENCY MANAGEMENT



WILLIAM B. RICHY, Chief
Idaho Office of Emergency Management

The 7th day of Jan, 2018
~~2017~~

