



Iowa



Washington

July 11, 2011

**TO ALL GOVERNORS:**

On behalf of the Council of Governors (Council), we are writing to update you on our efforts to develop a model dual status commander Memorandum of Agreement (MOA) and draft Reserve call-up legislation that we believe will ensure coordination between state and federal military forces during a simultaneous domestic emergency response in a way that protects the prerogative of states. We ask for your review and support of the MOA “as is”; we also ask you to support the complete legislative package or share proposed changes that would make the legislation acceptable to all states. These are unprecedented arrangements which we believe will enhance governors’ authorities to oversee military forces operating within their states.

In coordination with the Department of Defense and the White House, we have drafted a model MOA to be signed by each governor and the Secretary of Defense to expedite the appointment of a mutually-agreed upon dual-status commander during the response to a disaster. When requested by a governor, a dual-status commander would be appointed to exercise control over both federal and state forces to ensure a unified response. The dual-status commander will be a National Guard officer except for responses in an area of exclusive federal jurisdiction such as a federal military installation.

The draft legislation would provide the Secretary of Defense the authority to mobilize Title 10 Reserve forces to assist in the federal response to a domestic emergency and codify dual-status command as the “usual and customary arrangement” to assure unity of effort when responding to a domestic emergency. The Department of Defense has sought the authorization to mobilize federal Reserve forces to close a gap in emergency response authority. The National Governors Association (NGA) opposed such legislation in the past due to concerns that it could lead to confusion and duplication of effort by competing chains of command. We believe codification of the provision entitled “Usual and Customary Arrangement” will clarify that the governor will be the principal supported civil authority during a joint state-federal response except for incidents occurring in an area of exclusive federal jurisdiction. Since our initial opposition, the dual-status commander concept has been developed, National Guard officers have been trained to serve as dual-status commanders, and now the draft MOA has been developed – these developments further allay our initial concerns.

These documents are discussed in greater detail in the two attached “Frequently Asked Questions” documents and Dual Status Flow Chart. To facilitate your review of the MOA and legislation, NGA will host a conference call for all governors to discuss these documents on **Wednesday, July 13 at 10:00 am EST**.

If we have consensus among governors, the Council is prepared to discuss and finalize the attached MOA and discuss the proposed changes in the attached legislative package with the Council of Governors at our next meeting on Sunday, July 17, following the NGA Annual Meeting in Salt Lake City, Utah. We hope you will agree that these documents will resolve a long-standing concern regarding state-federal emergency response and will provide governors an additional tool when managing the response to complex emergencies. If you

have concerns with either the MOA or the legislation, please contact Heather Hogsett at NGA at [hhogsett@nga.org](mailto:hhogsett@nga.org) or (202)624-5360 no later than July 14.

Thank you for your support.

Sincerely,



Governor Terry E. Branstad  
Co-Chair  
Council of Governors



Governor Christine O. Gregoire  
Co-Chair  
Council of Governors

Enclosures: Memorandum of Agreement for Use and Establishment of a Dual-Status Commander Pursuant to Title 32, U.S. Code

Legislation – “Authority to Order Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve to Active Duty to Provide Assistance in Response to a Major Disaster or Emergency”

Frequently Asked Questions

Frequently Asked Questions #2 – Primer on Constitutional and Statutory Authority

Dual Status Flow Chart