



LEGISLATIVE PROPOSAL FOR ACTIVATION OF FEDERAL RESERVE FORCES FOR DISASTERS
JUNE 2009
Congressional Fact Sheet

The Department of Defense (DOD) has submitted for consideration in the Fiscal Year 2010 National Defense Authorization Act a proposal to authorize the Secretary of Defense to order Army Reserve, Air Force Reserve, Navy Reserve, and the Marine Corps Reserve, to active duty for a major disaster or emergency. This proposal would amend chapter 1209 of title 10, United States Code, by inserting a new section authorizing the Secretary of Defense to order any unit or member of the Army Reserve, Air Force Reserve, Navy Reserve, and the Marine Corps Reserve, to active duty for a major disaster or emergency, as those terms are defined in section 5122 of title 42, U.S. Code, for a continuous period of not more than 120 days.

This legislative proposal would make the significant capabilities of the Army Reserve, Air Force Reserve, Navy Reserve, and Marine Corps Reserve available to the Secretary of Defense to assist civil authorities in responses to major disasters and emergencies, thus enabling a truly Total Force approach to disaster response. The Federal Reserve forces represent a significant capability, embedded in thousands of communities throughout our nation, which, with the exception of national emergencies, cannot be ordered to active duty to assist the primary Federal agency's response to major disasters or emergencies, even in circumstances when Reserve units may be closest to the disaster area and thus the most timely and cost-effective response.

This proposed new Title 10 section would also implement the recommendation of the Commission on the National Guard and Reserves that the "mobilization authorities for Federal Reserve forces to respond to emergencies should be expanded" to "provide the authority to involuntarily mobilize Federal Reserve components for up to 60 days in a four-month period and up to 120 days in a two-year period."

It is further important to note that certain DOD capabilities reside exclusively or in significant numbers in the Federal Reserve forces, such as aerial spray, "Hurricane Hunter" weather reconnaissance, combat surgical hospitals, search and rescue, aeromedical evacuation, mortuary affairs, engineering and logistical support. As a few examples, the President or Secretary of Defense currently does not have the legal authority to activate the following assets in response to a natural disaster or emergency:

- 560th RED HORSE Squadron, Air Force Reserve Command, Charleston, South Carolina
- Helicopter Anti-Submarine Squadron Seventy Five [HS 75], U.S. Navy Reserve, Jacksonville, Florida
- 4th Landing Support Battalion, Marine Forces Reserve, New Orleans, Louisiana
- 926th Engineer Group, U.S. Army Reserve, Montgomery, Alabama

With Active Duty and National Guard forces strained by operations abroad, it is critical that the significant capabilities of the Federal Reserve forces be available to assist civil authorities in the case of major disasters or emergencies. The Federal Reserve forces' capabilities are available for incidents involving the use or threat of weapons of mass destruction or a threat or attack by terrorists, under the authority of subsection 12304(b) of title

10, U.S. Code. The ability to activate Federal Reserve forces for major disasters or emergencies would provide the primary Federal agency the most rapid and effective military response

From an historical perspective, in two 1993 reports on the Hurricane Andrew response and then again thirteen years later in a report on the Hurricane Katrina response, the Comptroller General of the United States identified the disparity in activation authorities and recommended Congress grant the Secretary of Defense the authority to activate Federal Reserve forces for natural disasters.

The DOD proposed language, as approved by the Office of Management and Budget, states:

SEC. ____ . 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.

(a) AUTHORITY.—

(1) IN GENERAL.—Chapter 1209 of title 10, United States Code, is amended by inserting after section 12304 the following new section:

“§ 12304a. Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve: order to active duty to provide assistance in response to a major disaster or emergency

“(a) AUTHORITY.—Notwithstanding any other provision of law, to provide assistance in responding to a major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), the Secretary of Defense may, without the consent of the member affected, order any unit, and any member not assigned to a unit organized to serve as a unit, of the Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve, under the jurisdiction of that Secretary to active duty for a continuous period of not more than 120 days.

“(b) EXCLUSION FROM STRENGTH LIMITATIONS.—Members ordered to active duty under this section shall not be counted in computing authorized strength of members on active duty or members in grade under this title or any other law.

“(c) TERMINATION OF DUTY.—Whenever any unit or member of the Reserves is ordered to active duty under this section, the service of all units or members so ordered to active duty may be terminated by order of the Secretary of Defense or law.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 12304 the following new item:

“12304a. Army Reserve, Navy Reserve, Marine Corps Reserve, Air Force Reserve: order to active duty to provide assistance in response to a major disaster or emergency.”

(b) TREATMENT OF OPERATIONS AS CONTINGENCY OPERATIONS.—Section 101(a)(13)(B) of such title is amended by inserting “12304a,” after “12304.”

USNORTHCOM Legislative Affairs Office:

The Pentagon, Room 2A872
Washington, DC 20330
(703) 695-9188

Lt Col Rob Palmer, USAFR, rob.palmer@northcom.mil
Ms. Caroline Ross, caroline.ross@js.pentagon.mil
Mr. Charles Faulkner, IV, charles.faulkner@northcom.mil

U.S. Northern Command (USNORTHCOM) was established on October 1, 2002 to provide command and control of Department of Defense (DOD) homeland defense efforts and to coordinate civil support missions. The USNORTHCOM area of responsibility encompasses North America, Bermuda, the Gulf of Mexico, the Straits of Florida, the Caribbean region inclusive of the U.S. Virgin Islands, British Virgin Islands, Puerto Rico, the Bahamas, Turks and Caicos Islands, and surrounding waters out to approximately 500 nautical miles.