



# CHIEF NATIONAL GUARD BUREAU NOTICE

NGB-ZC-MEC  
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CNGB Notice 1401  
24 February 2012

GUIDANCE FOR USE OF NATIONAL GUARD MEMBERS IN FULL-TIME DUTY PROGRAMS TITLE 32 (T32) ACTIVE GUARD RESERVE, T32 FULL-TIME NATIONAL GUARD DUTY OPERATIONAL SUPPORT (FTNGDOS) AND FULL-TIME NATIONAL GUARD DUTY COUNTER DRUG (FTNGDCD) MILITARY TECHNICIANS FOR CONUS CONTINGENCY SITUATIONS

Reference(s): See Enclosure A.

1. Purpose. Chief National Guard Bureau (CNGB) approve notice to guide contingency use of NG members in full-time duty for other purposes for T32 FTNGDOS and FTNGDCD Military technicians.
2. Cancellation. This notice cancels All States Memorandum (ASM) P10-0011 15 June 2010, "Guidance for Use of National Guard members in Full-Time Duty Programs Title 32 (T32) Active Guard Reserve, T32 Full-Time National Guard Duty Operational Support (FTNGDOS) and Full-Time National Guard Duty Counter Drug (FTNGDCD) Military Technicians for CONUS Contingency Situations".
3. Applicability. This notice is applicable to all States and Territories and the District of Columbia who have Title 32 (T32) Active Guard Reserve, T32 Full-Time National Guard Duty Operational Support (FTNGDOS) and Full-Time National Guard Duty Counter Drug (FTNGDCD) Military Technicians for CONUS Contingency Situations.
4. Background. The Adjutants General (TAG) and United States Property Fiscal Officer (USPFO) requested clarification of proper use of AGR's, technicians, and counter drug personnel to support contingencies in which traditional NG members respond in operation T32 status, T32 training status, or state active duty status.
5. Action or Procedure. This notice specifies NGB policy for utilization of all full-time members (AGR, FTNGDOS/FTNGDCD, and dual status Military Technicians) to support CONUS large scale contingency responses (e.g., Airport Security, Hurricane Katrina, Operation Jump Start) or small scale contingency

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operations in which traditional NG members respond in an operational 32 U.S.C. 502 (f) status (duty requested by the President or the Secretary of Defense), 32 U.S.C. 502 (a) training status, or State Active Duty (SAD) status. This letter provides guidance for contingency situations in which operational T32 duty has been approved by the President or the Secretary of Defense, additional guidance relating to AGR members and military technicians based on the FY07 National Defense Authorization Act (NOAA) enactment of 32 U.S.C. 328, 32 U.S.C. 502(f)(2)(A), and 32 U.S.C. 709(a)(3)(A). States should recognize that using National Guard members from full-time dedicated purpose programs for contingency situations invokes fiscal law and Anti-Deficiency Act implications. Accordingly, all such use must be carefully implemented and monitored. The following policy, as previously outlined in All States Memo P10-0011, remains in effect:

- a. T32 AGR Members. When a unit is ordered to operational 32 U.S.C. 502(a) status, 32 U.S.C. 502(f) status, or state active duty (SAD) status to support a contingency situation, its AGR members may accompany the unit and continue to perform their normal AGR duties. Because AGR duty is year-round military duty, an AGR member may not, by taking leave, be placed in a different military duty status to be used as an individual. If an AGR member has a critical skill set needed by another unit that individual may be attached or cross-leveled to the deploying unit if no other reasonable option exists. This authority cannot be used to cross-level significant numbers of AGRs from non-deploying units to deploying units. In addition, if an AGR member's unit is performing operational 32 U.S.C. 502(f) duty (i.e., at the request of the President or the Secretary of Defense), the member may, pursuant to 32 U.S.C. 328(b) and 32 U.S.C. 502(f) (2) (A), support the operation or mission to the extent that doing so does not interfere with the performance of his/her primary AGR duties. For units composed entirely of AGR members and established by law to perform specific functions in contingency situations, such as Civil Support Teams, performing those functions in response to the specified contingency situations falls within their normal AGR duties and a request from the President or Secretary of Defense is not required.
- b. T32 FTNGDOS/FTNGDCD Members. If FTNGDOS/FTNGDCD members are required to support a contingency situation, the members' FTNGD orders will be rescinded and they will be placed in the same status (operational 32 U.S.C. 502(f) status or SAD status) as other members of the responding unit. A change in status may affect entitlement to certain benefits. Individual circumstances, such as a member whose dependent is currently undergoing medical treatment and has no other insurance, should be considered before ordering such members to support a contingency operation. The status change can adversely affect the member.

- c. Dual Status Military Technicians. When a technician's unit is ordered to operational T32 502(f) or SAD status to support a contingency situation, the technician may likewise be ordered into that same status. However, the technician must be in an annual leave, leave without pay, compensatory leave, or military leave status for the duration of the orders. In addition, if a technician's unit is performing operational 32 U.S.C. 502(f) duty (at the request of the President or the Secretary of Defense), the technician may, pursuant to 32 U.S.C. 709(a) (3) (a), support the operation or mission while remaining in a technician status to the extent that doing so does not interfere with his or her primary duties.
  
- d. Notwithstanding the above situations. AGR members, FTNGDOS/FTNGDCD members, and military technicians, are authorized to support an immediate response situation at the request of civil authorities. DoDD 3025.18, paragraph 4g, defines "immediate response authority" as "a commander's or other responsible DoD or State officials authority, temporarily to employ resources under their control, subject to supplemental direction from higher headquarters, to provide those resources to save lives, prevent human suffering, or mitigate great property damage in response to a request for assistance from a civil authority within the United States. Immediate response authority does not permit actions that would subject civilians to the use of military power that is regulatory, prescriptive, proscriptive, or compulsory. While DoDD 3025.18 recognizes the authority of State officials to direct immediate response using National Guard personnel under State command and control (including personnel in a Title 32 status), it prohibits National Guard personnel from being placed into or extended in a Title 32 status specifically to conduct State immediate response activities.
  
- e. Immediate response situations in which AGR members. FTNGDOS/FTNGDCD members, and military technicians are employed shall be reported to CNGB as soon as practicable. Such situations shall be reassessed not later than 72 hours after employment. All incremental costs involved with military personnel in Federal service participating in an immediate response are reimbursable to DoD. To enable incremental cost calculation, local commanders must report daily all military personnel and equipment used for the immediate response. In immediate response situations, maximum efforts must be made to replace AGR members, FTNGDOS/FTNGDCD/CST members, and technicians with traditional members in an appropriate duty status. Support provided under immediate response authority should be provided on a cost-reimbursable basis, where appropriate or legally

required, but will not be delayed or denied based on the inability or unwillingness of the requester to commit to reimbursing the DoD.

6. Releasability. This notice is approved for public release. NG components and NGB elements may obtain copies of this notice through Guard Knowledge Online (GKO).
7. Effective Date. This notice is effective one year from the date of signature.

  
CRAIG R. MCKINLEY  
General, USAF  
Chief, National Guard Bureau

Enclosure(s):  
References

ENCLOSURE

REFERNCES

- a. Title 32, United States Code (U.S.C.), Sections 328, 502(f), and 709
- b. Fiscal Year 2007 “National Defense Authorization Act”
- c. DoD Directive 3025.18, 29 Dec 10, “Defense Support to Civil Authorities”
- d. Army Regulation (AR) 135-18, 1 Nov 04, “The Active Guard Reserve (AGR) Program
- e. NGR 500-1/ANGI 10-8101, 13 Jun 08, “National Guard Domestic Operations”
- f. NGR 500-2/ANGI 10-801, 29 Aug 08, “National Guard Counterdrug Support”
- g. NGR 500-3/ANGI 10-2503, 9 May 2011, “Weapons of Mass Destruction Civil Support Team Management”
- h. National Guard Regulation (NGR) 600-5, 20 Feb 90, “The Active Guard Reserve (AGR) Program Title 32, Full-Time National Guard Duty”
- i. ANGI 36-101, 3 Jun 10, “Air National Guard Active Guard Reserve (AGR) Program”