



**STATE OF NEW JERSEY  
DEPARTMENT OF DEFENSE  
EGGERT CROSSING ROAD, BOX 878  
TRENTON, N. J. 08625**

NJARNGR 27-20  
NJANGR 112-2

NJARNG REGULATION  
NO. 27-20 \*  
NJANG REGULATION  
NO. 112-2 \*\*

4 April 1979

LEGAL SERVICES (ARMY)

CLAIMS (AIR)

Claims For or Against the United States  
and/or the State of New Jersey

1. References: AR 27-20, DA Pam 27-162, AFM 112-1, New Jersey Tort Claims Act.
2. Purpose: This regulation sets forth the procedures for reporting of incidents arising from the activities of the New Jersey National Guard which may result in a claim for or against the United States or the State of New Jersey.
3. Claims by Private Persons for Property Damage, Personal Injury, or Death:

a. Authority - The statutory authority for the submission of a claim is contained in the act of 13 September 1960 (74 Statute 878, 32 USC 715) (National Guard Claims Act); the act of 18 July 1966 (60 Statute 842, 28 USC 2671-2680) (Federal Tort Claims Act) and the New Jersey Tort Claims Act (NJSA 59:1-1 et seq). In general, these acts authorize the Secretary of the Army/Air Force and/or the State of New Jersey to administer and pay claims for property damage (destruction or loss) injury, or death arising from the activities of the Army and Air National Guard.

b. The following activities are recognized as the most frequently cited in claim action:

- (1) Engaged in training or duty under Title 32, USC.
  - (a) Section 502 - Inactive Duty Training.
  - (b) Sections 503-505 (Annual Training, ARNG Schools/Army Service Schools).

\* This regulation supersedes NJDoD Staff Memo 3, 13 Feb 74

\*\* This regulation supersedes NJANG Regulation No. 112-2, 20 Dec 65

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(c) Any other provision of law for which a Guardsperson is entitled to pay under Title 37, USC, Section 206, or for which he has waived that pay, and providing the Guardsperson is acting within his/her scope of employment.

(2) A National Guard technician employed under Title 32, USC, Section 709, acting within the scope of his/her employment.

(3) Otherwise incident to State directed activities of the ARNG/ANG engaged in training under one of the above enumerated sections.

4. Payment Limitations - There is no dollar limitation on the amount a private person may claim. The authority of the Secretary of the Army/Air Force administratively settle is limited to \$25,000. If the Secretary of the Army/Air Force considers a claim meritorious, in an amount greater than \$25,000, he may pay that amount and report the excess to Congress for its consideration.

5. Claims Payable - The type of claims payable are detailed in paragraphs 4 and 6, AR 27-20 and Chapter 14, AFM 112-1. In general, they may be due to death, injury, loss, damage, or destruction of property when:

a. Caused by an act or omission, negligence (wrongful or otherwise), involving fault of a Guardsperson, technician, or State employee in the activities outlined in 3.b. (1), (2), and (3) above.

b. Incident to State directed activities of ARNG/ANG personnel during duty or training.

6. New Jersey Tort Claims Act:

a. The NJ Tort Claims Act (Title 59, Chapter 1, et seq.) was passed by the New Jersey Legislature, effective 1 July 1972. Tort claims against the State and/or its employees are administered through this headquarters to the Claims Service Section, Department of Law and Public Safety for all State directed ARNG/ANG activities.

b. In general terms, the NJ Tort Claims Act removed the blanket immunity from tort claims which the State previously enjoyed by reason of sovereign authority. It defines the position of the State and its employees insofar as tort liability is concerned; set forth procedures for the submission of such claims and the administrative processing thereof; furnishes guidelines effective in event of litigation and establishes a tort claims fund, out of which such claims are to be paid. Distribution of this act was made at State Department level only.

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c. Examples of acts cognizable under the New Jersey State Tort Claims Act are:

(1) Damages due to negligence of the driver operating a State vehicle, or to the driver of a military vehicle ordered to State Active Duty.

(2) Negligence such as leaving equipment or debris in an area available to the public. Also included would be the failure to remove ice and snow from armory walkways or parking lots in a reasonable amount of time.

7. Any written communications or "papers" of any kind received at the unit level regarding a tort will be referred to as "correspondence". The terms "claim" and/or "notice of claim" should be avoided due to their special significance under the State Tort Claims Act and their improper use may prejudice a later defense, if (or when) a claim is submitted.

8. Filing of Claims: Private persons seeking information regarding the filing of a claim will be referred to this headquarters, ATTN: LS (609-292-3873).

9. Notification of Incidents: A telephone report will be made to this headquarters (LS) by the administrative headquarters concerned on all incidents involving property damage, personal injury or death that occur during duty hours. If an incident occurs on a weekend, holiday, or non-duty hours, a call will be made as expeditiously as conditions permit to the NJDoD Duty Officer. The preparation and forwarding of reports required by the installation at which a unit is attending Annual Training does not eliminate the requirement for reporting to this headquarters. The reporting of motor vehicle accidents will continue to be accomplished IAW NJARNGR 385-40.

10. Reporting Procedures:

a. The Command Administrative Assistant (CAA) will normally investigate incidents which may give rise to a claim for or against the United States or the State of New Jersey; the Operations and Training Specialist (OTS) or an officer designated by the Commander will perform this duty in the absence of the CAA. Appointment orders will not be published by this headquarters.

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\* b. The Air National Guard Base Support Services Officer or alternate appointed by the Air Commander concerned will investigate incidents occurring within units of the New Jersey Air National Guard.

c. Reports required for submission within 48 hours of incident (in triplicate):

- (1) NJDoD Form 105 (Report of Incident).
- (2) NJDoD Form 646 (Scope of Employment).

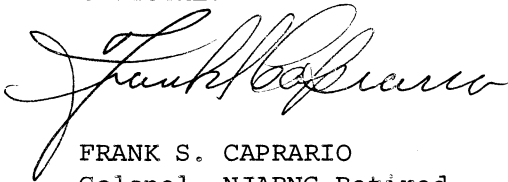
d. Reports required within thirty (30) days of initial notification (in triplicate).

- (1) DA Form 1208 (Report of Claims Officer) or NJDoD Form 741 (ANG only) as applicable.
- (2) Police Report.
- (3) Witness Statements (DA Form 2853) or (AF Form 1169).
- (4) Estimate of Damages (if available).
- (5) Death Certificate (if appropriate).

(LS)

FOR THE GOVERNOR:

OFFICIAL:



FRANK S. CAPRARIO  
Colonel, NJARNG Retired  
Adjutant General

WILFRED C. MENARD, JR.  
Major General, NJARNG  
The Chief of Staff

DIST: A, B, E, H, J, K, L,  
S: SJA Dix  
Army Claims Svc  
Risk Mgmt