



*U.S. Department of
Justice*

Radiation Exposure Compensation Act Trust Fund

FY 2024 Budget &
Performance Plan

March 2023

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I. Overview for the Radiation Exposure Compensation Act

The Radiation Exposure Compensation Act (“the Act” or “RECA”) offers an apology and monetary compensation to individuals who contracted certain cancers and other serious diseases as a result of their exposure to radiation released during above-ground nuclear weapons tests or as a result of their occupational exposure while employed in the uranium industry during the build-up to the Cold War.

The Department of Justice established the Radiation Exposure Compensation Act Program (“the Program”) within the Civil Division to adjudicate claims under the Act. Since the Program commenced operations in April 1992, over 54,000 claims have been filed and approximately \$2.6 billion has been awarded in connection with 40,258 approved claims through December 31, 2022; this reflects a 75 percent approval rate. Of the denials, only 16 claimants have sought review in Federal District Court.

The RECA Extension Act of 2022 was signed into law on June 7, 2022. This law provides a two-year extension to the RECA Trust Fund and the filing deadline for new claims from its date of enactment. The RECA Extension Act leaves in place existing statutory requirements to adjudicate a claim within one year of filing and to pay meritorious claims within six weeks of approval. On January 23, 2023, the Department published in the Federal Register a notification of procedures that explains how the Department will handle claims submitted at the revised statutory filing deadline.

FY 2024 Estimate

For Fiscal Year (FY) 2024 an estimated \$80.0 million is required and requested for the RECA Trust Fund.

Upholding the Civil Division’s Trust Responsibility to Tribal Nations

The RECA Program works to uphold the Federal Government’s trust responsibility to tribal nations consistent with the Civil Division’s priorities. As of December 31, 2022, the Program has received 7,704 claims from members of tribal nations, representing 24 recognized tribes. Of those claims, 5,310 have been granted, totaling more than \$362.5 million in awards. Members of the Navajo Nation constitute 86 percent of the claimants who indicate tribal membership, and they have received awards totaling more than \$297.8 million.

RECA’s downwind affected area covers land within multiple federally designated Indian reservations, including the Navajo, Hopi, and White Mountain Apache reservations. The boundaries of these reservations, and others, include trust and restricted fee territories designated by federal treaties, executive orders, and acts of Congress. Many of the areas placed at increased risk of disease by atmospheric nuclear testing and uranium mining are covered by the United States’ trust responsibilities to tribal nations.

Broad Range of Award Recipients

Compensation has been awarded to individuals residing in all 50 states, as well as several foreign countries. Residents of the “Four Corners” region of the American southwest (Arizona, New Mexico, Utah, and Colorado) have filed the majority of claims and have received awards valued

at approximately \$1.8 billion during the life of the program. Of the approximately \$2.6 billion awarded through December 31, 2022, approximately \$393.5 million has been awarded to veterans, civil servants, and contractors who participated onsite in atmospheric nuclear tests.

II. Summary of Program Changes

Item Name	Description			Pg.
	Pos.	FTE	Dollars (\$000)	
RECA Claims	0	0	\$30,000	13

III. Appropriations Language and Analysis of Appropriations Language

The FY 2024 budget request does not include proposed changes in the appropriations language.

IV. Program Activity Justification

Mission Statement: Fairly and expeditiously adjudicate claims, fully consistent with the Radiation Exposure Compensation Act, as amended; educate the public about the Act; and develop strategies for improving the Program.

RECA Program	Direct Pos.	Estimate FTE	Amount (\$ in thousands)
2022 Enacted	0	0	\$70,000
2023 Enacted	0	0	\$50,000
Adjustments to Base and Technical Adjustments	0	0	\$0
2024 Current Services	0	0	\$50,000
2024 Program Increases	0	0	+\$30,000
2024 Request	0	0	\$80,000
Total Change 2023-2024	0	0	+\$30,000

Program Description

From 1945 through 1962, the United States conducted nearly 200 atmospheric nuclear weapons tests while building the arsenal that became the cornerstone of the Nation's Cold War security strategy. At the same time, other world powers also engaged in testing nuclear weapons. The mining and processing of uranium ore that was conducted by thousands of workers was essential to the development of nuclear weapons. Navajo uranium miners, and those living downwind of the Nevada Test Site, filed class action lawsuits that appellate courts eventually dismissed. Congress then devised a program to make partial restitution to the individuals who developed serious illnesses after their exposure to radiation released during above-ground atmospheric nuclear tests or following their employment in the uranium industry. On October 5, 1990, Congress passed RECA and later broadened the scope of its coverage on July 10, 2000.

The Act established monetary compensation for individuals who contracted specified diseases in three defined populations:

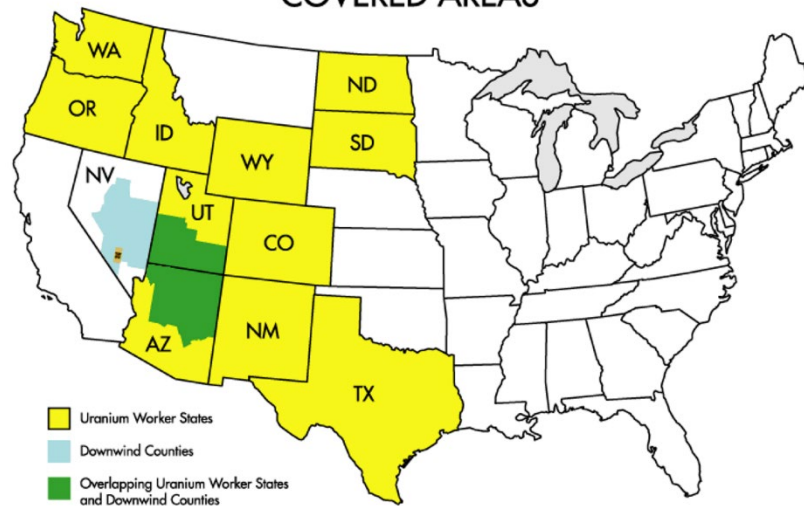
- Uranium workers (Section 5 claimants) – uranium miners, millers, and ore transporters receive \$100,000;
- Onsite participants (Section 4 claimants) – individuals present at atmospheric nuclear test locations receive \$75,000; and
- Downwinders (Section 4 claimants) – individuals who lived downwind of the Nevada Test Site receive \$50,000.

Department of Justice regulations were designed to utilize existing records so that claims could be resolved in a reliable, objective, and non-adversarial manner, with little administrative cost to the United States or to the claimant.

“RECA claimants worked in hazardous occupations and were subjected to increased risk of disease to serve the national security interests of the United States. This extraordinary statute provides partial restitution to these individuals and their families for the sacrifices they made during a critical time in our nation’s history.”

*~ Civil Division,
March 2, 2015 Press Release*

MAP OF RADIATION EXPOSURE COMPENSATION ACT COVERED AREAS



The map above shows the geographic areas covered by the Act. The claimant population also includes numerous Native American tribes.

Today, the Program is part of a broad inter-agency network that comprises the comprehensive federal radiation compensation system. The Program works with the Departments of Health and

Human Services, Labor, Energy, Veterans Affairs, and Defense to administer the Act and to assist those agencies with the administration of statutes that rely on information developed under RECA.

Funding History

The RECA Trust Fund was funded out of discretionary appropriations from FY 1992 to FY 2001. Following enactment of the RECA Amendments of 2000 (“the 2000 Amendments”) on July 10, 2000, the Department received an influx of new claims. The RECA Trust Fund appropriation was insufficient to meet the number of claims deemed eligible for compensation. In 2001, Congress addressed the deficiency via the Department of Defense Authorization Act for FY 2002, which established annual funding but imposed mandatory spending caps. By 2003, however, the increased rate of new claim filings and approvals made clear that the caps were inadequate to meet claim demands. Working in close coordination, the appropriators and authorizers bifurcated the funds from which RECA claims are paid:

- The Consolidated Appropriations Act for 2005 contained language that made funding for the RECA Trust Fund mandatory and indefinite beginning in FY 2006. Henceforth, the Fund has exclusively paid onsite participants and downwinders (or Section 4 claimants).
- The National Defense Authorization Act for FY 2005 contained language requiring the Energy Employees Occupational Illness Compensation Fund to pay uranium workers – uranium miners, millers, and ore transporters (or Section 5 claimants). This trust fund does not terminate.

The RECA Extension Act of 2022 extended the RECA Trust Fund and statutory claim filing deadline two years from its date of enactment on June 7, 2022. Statutory provisions requiring the Department to adjudicate claims within one year of filing, and to pay meritorious claims within six weeks of approval, were not changed by the RECA Extension Act. On January 23, 2023, the Department published revised procedures, policies, and deadlines for filing claims in the Federal Register. *See* Radiation Exposure Compensation Act: Notification of Procedures for Claims Submitted at the Revised Statutory Filing Deadline, 88 Fed. Reg. 3918 (Jan. 23, 2023)¹.

Claim Trends

The Department expects receipts and payments during FY 2024 to remain consistent with FY 2023, or possibly increase. The statistics from FY 2022, prior to the recent extension of the law, will likely be replicated in FY 2024 as the final day to file claims approaches.

As a result of the COVID-19 pandemic—in particular, the stay-at-home orders, closures of medical facilities and federal records centers, and reduced public access to government offices—there was a 25 percent reduction in RECA claims received by the Department during the last six months of FY 2020. Adjudications also declined 25 percent during the same period. Claims remained depressed in FY 2021.

¹ <https://www.federalregister.gov/documents/2023/01/23/2023-00865/radiation-exposure-compensation-act-procedures-for-claims-submitted-at-the-revised-statutory-filing>

During FY 2022, there was an increase in all claims, as easing pandemic restrictions coincided with publicity concerning the termination of the Program. The Program experienced a surge in claims during the period from March to July 2022—an increase that may be attributable to the prior filing deadline of July 10, 2022. As a result of this surge, the RECA program approved \$86.2 million in awards in FY 2022, the highest it has been since 2015.

Receipts during the first quarter of FY 2023 were 30 percent lower than the equivalent period during FY 2022. Nonetheless, the Program anticipates that publicity concerning the Program will continue during FY 2023 and FY 2024 as the extended sunset approaches. In addition, claims withheld during the pandemic as a result of obstacles to obtaining records may continue to be filed. Finally, some populations that are potentially RECA eligible are reaching the age where covered diseases present. Accordingly, the Program expects receipts and awards to stabilize during FY 2023 and increase during FY 2024 as the deadline to file claims approaches.

The Program is focused intently on adjudicating claims efficiently and in a timely manner, while continuing to monitor and forecast approval rates and projected claim filings.

Program Sunset

The RECA Extension Act of 2022 was signed into law on June 7, 2022. This law provides a two-year extension to the RECA Trust Fund and the filing deadline for new claims from its date of enactment. On January 23, 2023, the Department published in the Federal Register a notification of procedures that explains how the Department will handle claims submitted at the revised statutory filing deadline. This document sets forth claim filing procedures consistent with the Act as amended and describes the Department’s policies to ensure an orderly sunset.

Introduced Legislation

The Program closely tracks legislation pending before Congress which would amend the current statute. Moreover, the Program strives to be responsive to congressional inquiries and works with the Department’s Office of Legislative Affairs to provide useful information to members and their staffs. The 118th Congress convened on January 3, 2023. To date, no bills have been introduced to amend RECA during the 118th Congress. During the 117th Congress, one bill passed both chambers and was signed into law: S. 4119, the RECA Extension Act of 2022, extended the termination of the RECA Trust Fund and the filing deadline for new claims by two years from its date of enactment.

Hearings

No hearings concerning RECA have taken place during the 118th Congress. During the prior Congress, the Subcommittee on the Constitution, Civil Rights, and Civil Liberties of the House Judiciary Committee held a hearing on March 24, 2021, entitled “Examining the Need to Expand Eligibility Under the Radiation Exposure Compensation Act.” Testimony was heard from members of Congress and from advocates for an expansion of the RECA eligibility criteria. Several members of Congress, in roles as witnesses and as members of the committee, noted that RECA’s upcoming filing deadline (at the time in July 2022) presented an issue of concern.

Claims Data

On the following page is data concerning Section 4 and Section 5 claims. Actual data for the last four years, as well as claim estimates for FY 2022, FY 2023, and FY 2024 are provided.

Radiation Exposure Compensation Act Workload							
Claims Filed and Approved							
(Dollars in Thousands)							
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
	Actual	Actual	Actual	Actual	Actual	Estimate	Estimate
Section 4 Claims – Downwinders and Onsite Participants							
Downwinders							
Pending, Beginning of Year	236	282	218	108	189	264	232
Claims Filed	1,052	1,020	842	838	1,133	1,020	850
Claims Approved	904	1,000	858	720	1,002	1,000	752
Total Value of Approvals	\$45,200	\$50,000	\$42,900	\$36,000	\$50,100	\$50,000	\$37,575
Onsite Participants							
Pending, Beginning of Year	131	116	84	57	59	131	157
Claims Filed	299	263	230	233	355	263	266
Claims Approved	203	189	197	189	229	189	172
Total Value of Approvals	\$15,020	\$13,936	\$14,667	\$13,946	\$16,959	\$13,918	\$12,648
Subtotal Section 4 Claims							
Pending, Beginning of Year	367	398	302	165	248	395	389
Claims Filed	1,351	1,283	1,072	1,071	1,488	1,283	1,116
Claims Approved	1,107	1,189	1,055	909	1,231	1,189	923
Total Value of Approvals	\$60,220	\$63,936	\$57,567	\$49,946	\$67,059	\$63,918	\$50,223
Section 5 Claims – Uranium Miners, Millers, and Ore Transporters							
Pending, Beginning of Year	134	93	46	43	179	130	134
Claims Filed	191	221	159	316	354	221	266
Claims Approved	146	191	109	134	196	191	147
Total Value of Approvals	\$14,600	\$19,100	\$10,900	\$13,400	\$19,600	\$19,100	\$14,700

**Radiation Exposure Compensation Act Workload
Claims Filed and Approved**

(Dollars in Thousands)

	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Actual	FY 2022 Actual	FY 2023 Estimate	FY 2024 Estimate
TOTAL (Section 4 Claims and Section 5 Claims)							
Pending, Beginning of Year	501	491	348	208	427	525	523
Claims Filed	1,542	1,504	1,231	1,387	1,842	1,504	1,382
Claims Approved	1,253	1,380	1,164	1,043	1,427	1,380	1,070
Claims Denied	299	267	218	131	326	326	326
Total Adjudications	1,552	1,647	1,382	1,174	1,753	1,706	1,396
Approval Rate	81%	84%	84%	89%	81%	81%	77%
Total Value of Approvals	\$74,820	\$83,036	\$68,467	\$63,346	\$86,659	\$83,018	\$64,923

Performance and Resources Tables

Decision Unit: Radiation Exposure Compensation Act												
RESOURCES (\$ in thousands)			Target		Actual		Target		Changes		Requested (Total)	
			2022		2022		2023		Current Services Adjustments and FY 2024 Program Changes		FY 2024 Request	
Total Costs and FTE			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
(reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)			0	70,000	0	70,000	0	50,000	0	30,000	0	80,000
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	FY 2022		FY 2022		FY 2023		Current Services Adjustments and FY 2024 Program Changes		FY 2024 Request	
Performance Measure	2.6	1. Maintain an average claim processing time of 200 days	200		92		200		N/A		200	
Performance Measure	2.6	2. Percentage of claims paid within six weeks of Program receipt of acceptance form	90%		99%		90%		N/A		90%	
Performance Measure	2.6	3. Percentage of claim appeals adjudicated within 90 days of filing administrative appeal	95%		100%		95%		N/A		95%	
Performance Measure	2.6	4. Percentage of claims adjudicated within 12 months or less.	80%		96%		80%		N/A		80%	

Strategic Objective	Performance Measure Table					
	Decision Unit: Radiation Exposure Compensation Act					
	Performance Measures		FY 2022		FY 2023	FY 2024
			Target	Actual	Target	Target
2.6	Performance Measure	1. Maintain an average claim processing time of 200 days	200	92	200	200
2.6	Performance Measure	2. Percentage of claims paid within six weeks of Program receipt of acceptance form	90%	99%	90%	90%
2.6	Performance Measure	3. Percentage of claim appeals adjudicated within 90 days of filing administrative appeal	95%	100%	95%	95%
2.6	Performance Measure	4. Percentage of claims adjudicated within 12 months or less	80%	96%	80%	80%

Performance, Resources, and Strategies

The Program office is located in Washington, D.C. and is currently administered by a staff of four attorneys, five claims examiners, and nine contractors within the Constitutional and Specialized Torts Litigation Section of the Civil Division's Torts Branch. The support staff reviews claim packages, assists claimants with their applications, facilitates payments, and manages case files. The RECA Program strives to fairly and efficiently process and resolve claims.

The Division reduced the average claim processing times from FY 2015 through FY 2021. In FY 2015, the Program averaged 207 days to process a claim. Each subsequent year, the program was able to reduce the processing time by an average of 24 days, or 14 percent. The Division continued this trend even as it received a surge of claims in the months leading up to the previous filing deadline on July 10, 2022. By the end of FY 2022, the average processing time was 92 days, less than half the processing time of FY 2015. The "sunset surge" also included a number of poorly documented claims that have required additional information from federal, state, and tribal agencies. Because of the lingering effects of the COVID-19 pandemic, and the additional time needed to process the volume of pending claims, current processing time for a claim is 113 days.

a. Performance Plan and Report for Outcomes

The Civil Division is committed to vigilance in protecting and supporting all communities, including the most vulnerable ones, and to improving and expanding victim support both within and outside of the criminal justice system. The RECA Program supports the Civil Division in this goal, as well as in the promotion of safety and justice for victims in Indian country, via the administration of compensation programs enacted by Congress that offer non-litigation solutions for radiation exposure claimants. The Program has a number of performance measures that are included in the Civil Division's Performance Tables.

b. Strategies to Accomplish Outcomes

The Program will employ the following strategies to accomplish this mission:

- Utilize skilled claims examiners to conduct the initial review and processing of claims, freeing the Program attorneys to maximize efficiency by concluding the adjudication and rendering the final determination.
- Access external data sources, such as the Social Security Administration, the National Institute for Occupational Safety and Health, the Public Health Service, and state cancer and tumor registries to assist claimants in securing the necessary documentation to support their claims and reduce the burden on claimants.
- Coordinate with the Department of Labor's Energy Employees Occupational Illness Compensation Program to ensure that eligible Section 5 RECA claimants receive compensation in a timely manner. This includes the review of claimant files to decide

eligibility pursuant to the Energy Employees Occupational Illness Compensation Program Act.

- Coordinate with the U.S. Department of Health and Human Services' Radiation Exposure Screening and Education Program to assist grantees in providing relevant information to individuals screened for disease in the affected geographic regions.
- Brief Members of Congress and their staffs as requested. Provide information to Members of Congress and the public in an open, timely, and complete manner.
- Use a toll-free telephone line and website to communicate with claimants and publish regularly updated statistical information on www.data.gov.
- Respond timely to all media inquiries to ensure accurate information is disseminated to the public about the Program.

V. Program Increase:

Item Name: Radiation Exposure Compensation Act (RECA) Claims

Budget Decision Unit(s): Radiation Exposure Compensation Act

Organizational Program: Civil Division, Radiation Exposure Compensation Act (RECA) Program

Program Increase: Positions 0 Atty 0 FTE 0 Dollars \$30,000,000

Description of Item

The Civil Division seeks a program increase of \$30.0 million from the FY 2023 Enacted requested amount to pay Radiation Exposure Compensation Act (RECA) claims in FY 2024. This will provide a total of \$80.0 million in FY 2024 to pay the anticipated eligible claims.

Justification

With the enactment of the RECA Extension Act of 2022 and the extension of the program, additional funding is required for FY 2024 in order to ensure claims approved under Section 4 are able to be paid. In addition, the Division expects a surge in claims at the revised deadline similar to the surge experienced during FY 2022. Accordingly, the Division is requesting additional funds to accommodate this expected workload and ensure that all meritorious claims are able to be paid.

Base Funding

<i>FY 2022 Enacted</i>				<i>FY 2023 Enacted</i>				<i>FY 2024 Current Services</i>			
Pos	Agt/Atty	FTE	\$(000)	Pos	Agt/Atty	FTE	\$(000)	Pos	Agt/Atty	FTE	\$(000)
0	0	0	\$70,000	0	0	0	\$50,000	0	0	0	\$50,000

Personnel Increase Cost Summary

Not applicable.

Non-Personnel Increase Cost Summary

Non-Personnel Item	FY 2024 Request (\$000)	Unit Cost (\$000)	Quantity	Annualizations (\$000)	
				FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
RECA Claims	\$30,000	N/A	N/A	\$0	\$0
Total Non-Personnel	\$30,000	N/A	N/A	\$0	\$0

Justification for Non-Personnel Authorizations

The Civil Division is required by law to pay valid RECA claims.

Total Request for this Item

Category	Positions			Amount Requested (\$000)			Annualizations (\$000)	
	Count	Agt/Atty	FTE	Personnel	Non-Personnel	Total	FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
Current Services	0	0	0	\$0	\$50,000	\$50,000	\$0	\$0
Increases	0	0	0	\$0	\$30,000	\$30,000	\$0	\$0
Grand Total	0	0	0	\$0	\$80,000	\$80,000	\$0	\$0

Affected Crosscuts

Not applicable.

VI. Program Offsets by Item

Not applicable.