



*U.S. Department of
Justice*

Radiation Exposure Compensation Act Trust Fund

FY 2019 Budget and
Performance Plan

Submitted to the Congress of the United States
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Overview

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 Program (“the Program”) within the Civil Division to adjudicate claims under the Act. Since the Program commenced operations in April 1992, 46,513 claims have been filed and over \$2.21 billion has been awarded in connection with 33,684 approved claims (through FY 2017).

FY 2019 Estimate. For FY 2019, it is estimated that claim activity will be very similar to prior year activity. The Program anticipates that it will have approximately \$20 million carryforward funding from FY 2018. Civil estimates that approximately \$45 million will be needed for the RECA Trust Fund in FY 2019.

Significant Achievements

\$2 Billion Program Award Benchmark. In March 2015, the Program announced the obligation of over \$2 billion in claim awards since the beginning of the program. 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) filed the majority of the claims and received awards valued at over \$1.5 billion. Of the more than \$2 billion in awards, approximately \$299 million has been awarded to Native American claimants and distributed among members of 20 different tribes, and approximately \$316 million has been awarded to veterans, civil servants, and contractors who participated onsite in atmospheric nuclear tests.

Reduction of Claim Processing Time. A second notable accomplishment is the continued reduction in the average claim processing time. In FY 2015, the Program averaged 207 days to process an average claim, and, in FY 2016 the program reduced this by 27% to an average processing time of 151 days. In FY 2017, the Program maintained a similar average processing time of 153 days.

Program Description

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.

Background

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. Many workers 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 the Act 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:

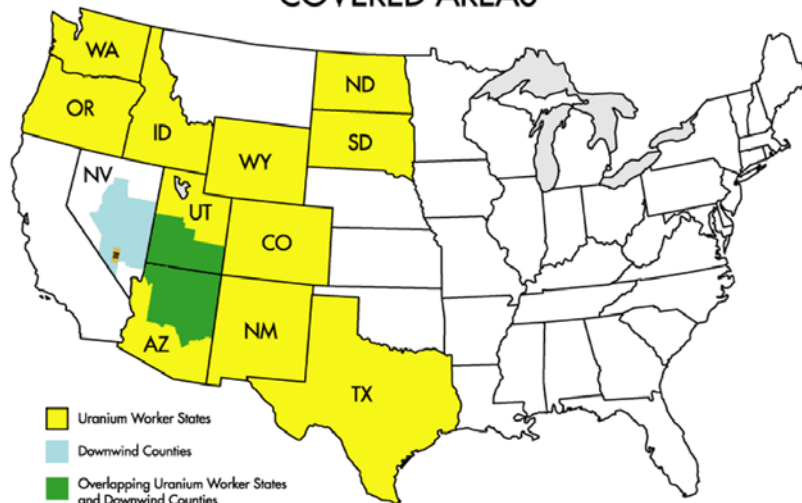
- Uranium workers (considered Section 5 claimants) – uranium miners, millers, and ore transporters receive \$100,000;
- On-site participants (considered Section 4 claimants) – individuals present at atmospheric nuclear test locations receive \$75,000; and
- Downwinders (considered Section 4 claimants)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

Department of Justice-issued 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. Although the vast majority of claims are filed by people living in the “Four Corners” region (Utah, Colorado, New Mexico, and Arizona), the Program has awarded compensation to individuals residing in every state as well as several foreign countries. The claimant population also includes several Native American tribes.

Today, the Program is at the center of a broad inter-agency network that comprises the comprehensive federal radiation compensation system, working with the Departments of Health and Human Services, Labor, Energy, Veterans Affairs, and Defense to administer the Act.

Funding History

The RECA Trust Fund was funded out of discretionary appropriations from FY 1992 to FY 2001. Following enactment of the 2000 Amendments and a subsequent influx of new claims, the appropriation became insufficient to meet the number of claims deemed eligible for compensation. In 2002, Congress addressed the problem within the Department of Defense Authorization Act for FY 2002, which established annual funding against mandatory spending caps. By 2003, however, the increased rate of new claim filings and approvals proved the caps to be inadequate. Working in close coordination, the appropriators and authorizers devised effective legislative solutions to the funding problems. The following statutes ensure that all eligible RECA claims will be paid in a timely manner throughout the life of the Program:

- 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 on-site 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).

In November 2011 and June 2012 the AARP published three articles related to atomic veterans and exposure to radiation. As a result, the media publicity led to an increase in claim filings, particularly by on-site participants, with an especially large spike in the second quarter of FY 2012 and another surge at the end of the third quarter. To quickly pay the eligible claims that were filed, the Program was apportioned additional funding of \$15 million in March 2012 for a total of \$87 million in FY 2012.

In FY 2012, the Program received 3,216 new Section 4 claims, of which 2,038 were from on-site participant claimants.¹ While the rate at which claims are filed has since decreased, the Program is focused intently on adjudicating claims efficiently and in a timely manner and continues to monitor and forecast approval rates and award increases.

Claim Projections

Claims tapered off in FY 2016 to pre-spike levels, and are expected to remain consistent in FY 2018 and FY 2019. In the next several years, the Program expects to see a consistent rate of new claims filed.

Historical Claim Statistics and Trends

Over the life of the Program, over 46,000 claims have been filed (through FY 2017). This has resulted in 46,016 adjudications, including 33,684 approvals, which reflects a 72 percent approval rate. Of the denials, only 16 claimants have sought review in federal district court.

Program Sunset

Under current law, all claims under RECA must be submitted on or before the Program sunset date of July 9, 2022. Any claims received after that date will be barred. As this date is towards the end of FY 2022, and the Program has 12 months to adjudicate a claim, the Program anticipates adjudicating claims received before the sunset date into FY 2023. Therefore, the Program anticipates funding required through FY 2023 to adjudicate and award those claims.

Proposed 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 current workload estimates and funding projections, however, are based on the current law and do not account for the possible impact of any statutory changes. Obviously, any such changes could dramatically change the Program as well as the amount requested from the Trust Fund.

¹ By comparison, in all of FY 2011, the Program received 1,383 Section 4 claims, of which only 240 were on site participant claims. The last time the Program saw such a dramatic increase in new claims was in FY 2001 after enactment of the RECA Amendments of 2000.

Claims Data

On the following page is data concerning Section 4 and Section 5 claims. Actual data for the last five years, as well as claim estimates for FY 2018 through FY 2019 are provided.

Radiation Exposure Compensation Act Workload							
Claims Filed and Approved							
(Dollars in Thousands)							
	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Estimate	FY 2019 Estimate
Section 4 Claims – Downwinders and On-Site Participants							
Downwinders							
Pending, Beginning of Year	440	582	636	318	309	260	251
Claims Filed	1,026	933	966	1,009	894	1,015	1,018
Claims Approved	775	777	1,166	920	864	882	878
Total Value of Approvals	\$38,750	\$38,850	\$58,300	\$46,200	\$43,200	\$44,100	\$43,900
On-Site Participants							
Pending, Beginning of Year	1,289	909	284	159	170	126	114
Claims Filed	948	515	369	316	299	311	309
Claims Approved	660	688	310	192	232	190	184
Total Value of Approvals	\$48,557	\$50,506	\$22,791	\$14,055	\$17,104	\$13,829	\$13,392
Subtotal Section 4 Claims							
Pending, Beginning of Year	1,729	1,491	920	477	479	386	365
Claims Filed	1,974	1,448	1,335	1,325	1,193	1,326	1,327
Claims Approved	1,435	1,465	1,476	1,112	1,096	1,072	1,062
Total Value of Approvals	\$87,307	\$89,356	\$81,091	\$60,255	\$60,304	\$57,929	\$57,292
Section 5 Claims – Uranium Miners, Millers, and Ore Transporters							
Pending, Beginning of Year	145	129	163	145	141	131	122
Claims Filed	302	327	254	227	207	193	179
Claims Approved	222	196	192	141	129	120	112
Total Value of Approvals	\$22,200	\$19,600	\$19,200	\$14,200	\$12,900	\$11,997	\$11,157

Radiation Exposure Compensation Act Workload Claims Filed and Approved (Dollars in Thousands)							
	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
TOTAL (Section 4 Claims and Section 5 Claims)							
Pending, Beginning of Year	1,874	1,620	1,083	622	620	517	487
Claims Filed	2,276	1,775	1,589	1,552	1,400	1,519	1,506
Claims Approved	1,657	1,661	1,668	1,253	1,225	1,192	1,174
Claims Denied	873	651	382	300	296	407	332
Total Adjudications	2,530	2,312	2,050	1,553	1,521	1,599	1,506
Approval Rate	65%	72%	81%	81%	81%	75%	78%
Total Value of Approvals	\$109,507	\$108,956	\$100,291	\$74,455	\$73,204	\$78,229	\$77,792

Performance, Resources, and Strategies

Performance Materials will be provided at a later date.

Performance Plan and Report for Outcomes

Performance Materials will be provided at a later date.

Strategies to Accomplish Outcomes

Performance Materials will be provided at a later date.