



*U.S. Department of
Justice*

Radiation Exposure Compensation Act Trust Fund

FY 2021 Budget &
Performance Plan

February 2020

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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 Program (“the Program”) within the Civil Division to adjudicate claims under the Act. Since the Program commenced operations in April 1992, over 49,000 claims have been filed and over \$2.37 billion has been awarded in connection with 36,321 approved claims through September 30, 2019.

Electronic copies of the Department of Justice’s Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <https://www.justice.gov/CJ>.

FY 2021 Estimate

For FY 2021, it is expected there will be a surge of claims as the program approaches the statute of limitations. Notably, the Program seeks additional funding to pay claims during FY 2021 as carryforward funding from FY 2020 is anticipated to be minimal. Civil estimates that approximately \$70 million will be needed for the RECA Trust Fund in FY 2021.

Significant Achievements

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) filed the majority of the claims and received awards valued at over \$1.6 billion during the life of the program. Of the more than \$2 billion in awards, approximately \$329 million has been awarded to Native American claimants and distributed among members of 23 different tribes, and approximately \$344 million has been awarded to veterans, civil servants, and contractors who participated onsite in atmospheric nuclear tests.

Reduction of Claim Processing Time

Another notable accomplishment is the continued reduction in the average claim processing time. In FY 2015, the Program averaged 207 days to process a 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. In FY 2018, the average processing time dramatically improved to 130 days per claim; and again in FY 2019 with a 17% drop in processing time to 108 days.

II. Summary of Program Changes

Item Name	Description				Pg.
		Pos.	FTE	Dollars (\$000)	
RECA Claims	Funding for Civil's RECA program to pay valid claims.	0	0	\$5,000	10

III. Appropriations Language and Analysis of Appropriations Language

The FY 2021 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)
2019 Enacted	0	0	\$45,000
2020 President's Budget	0	0	\$65,000
Adjustments to Base and Technical Adjustments	0	0	\$0
2021 Current Services	0	0	\$65,000
2021 Program Increases	0	0	\$5,000
2021 Request	0	0	\$70,000
Total Change 2020-2021	0	0	\$5,000

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. 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:

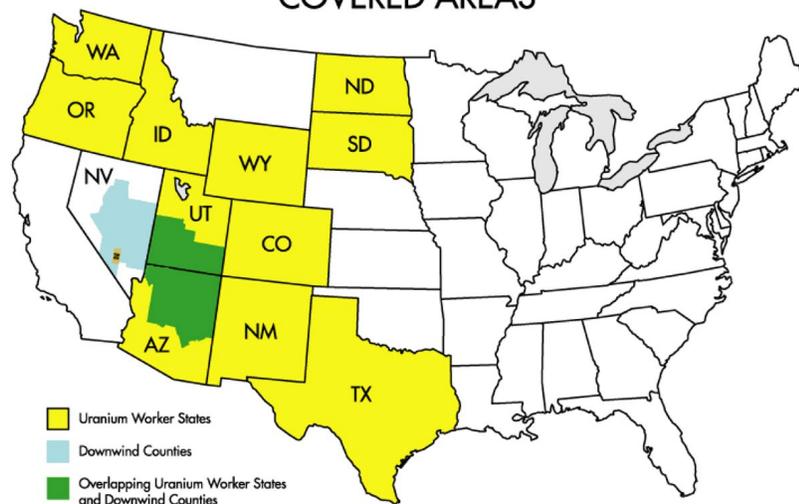
- Uranium workers (considered Section 5 claimants) – uranium miners, millers, and ore transporters receive \$100,000;
- Onsite participants (considered Section 4 claimants) – individuals present at atmospheric nuclear test locations receive \$75,000; and
- Downwinders (considered Section 4 claimants) – 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 (Arizona, New Mexico, Utah, and

Colorado), 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 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).

In November 2011 and June 2012, the American Association of Retired Persons (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 onsite 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 onsite 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 projected claim filings.

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.

Historical Claim Statistics and Trends

Over the life of the Program, over 49,000 claims have been filed through September 30, 2019. This has resulted in 49,205 adjudications, including 36,321 approvals, which reflects a 74 percent approval rate. Of the denials, only 16 claimants have sought review in Federal District Court.

Program Sunset

By statute, the RECA Trust Fund terminates on July 10, 2022. Congress also mandated that the authority of the Attorney General to administer the law expires on that same date. This means that the operations of the RECA Program cannot continue beyond the final day of the Act. The RECA statute of limitations, however, also permits new claims to be filed until July 10, 2022. Because of the limitations on the RECA Trust Fund and the Attorney General's authority, some claims that are timely filed on the last day may not be processed. The Division looks forward to working with Congress to address the conflicts among these provisions of the Radiation Exposure Compensation Act to facilitate an orderly sunset and minimize the risk of litigation against the United States.

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.

Several bills introduced in the 116th Congress may impact the Program's workload estimates and funding projections:

- S. 947 / H.R. 3783, The Radiation Exposure Compensation Act Amendments of 2019, propose broad expansions to RECA's eligibility criteria. The bills would extend the RECA Trust Fund and statute of limitations 23 years; increase compensation to \$150,000 with retroactive application to previously awarded claimants; reimburse medical expenses incurred for approved illnesses; dramatically expand RECA's downwind areas; expand the compensable period for uranium workers from 1971 to 1990; and create new classes of claimants for uranium "core drillers," uranium mine reclamation workers, and personnel involved with Enewetak cleanup efforts, among other changes to the Act. If passed, the bills would have significant impact on RECA workload and cost estimates.
- S. 776 / H.R. 757, The Downwinders Compensation Act of 2019, would expand the downwind affected area to include the entire areas of Clark County, Nevada, and Mohave County, Arizona. Because the bills would extend coverage to the metropolitan areas of Las Vegas, Nevada, and Kingman, Arizona, they would have significant impact on RECA workload and cost estimates.

RECA Reports to Congress

In its report for the National Defense Authorization Act for FY 2020, the House Armed Services Committee directed the Secretary of Defense, in consultation with the Attorney General, to provide a report assessing the extent to which those groups affected by government nuclear testing are prevented from receiving compensation under RECA. The Nuclear Test Personnel Review (NTPR), a component of the Department of Defense's Defense Threat Reduction Agency (DTRA), has been assigned responsibility for this report. The RECA Program is working with the NTPR to develop a fully comprehensive and coordinated response. On November 7, 2019, the DTRA provided an interim report to Congress that it expects to complete the report by June 2020.

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 2019 through FY 2021 are provided.

Radiation Exposure Compensation Act Workload							
Claims Filed and Approved							
(Dollars in Thousands)							
	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Estimate	FY 2021 Estimate
Section 4 Claims – Downwinders and On-Site Participants							
Downwinders							
Pending, Beginning of Year	636	318	309	236	266	259	257
Claims Filed	966	1,009	894	1,052	1,022	1,038	1,044
Claims Approved	1,166	920	863	904	1,005	908	912
Total Value of Approvals	\$58,300	\$46,200	\$43,200	\$45,550	\$50,250	\$45,400	\$45,600
On-Site Participants							
Pending, Beginning of Year	284	159	170	131	116	77	89
Claims Filed	369	316	299	299	261	265	262
Claims Approved	310	192	232	203	192	155	159
Total Value of Approvals	\$22,791	\$14,055	\$17,104	\$15,095	\$14,161	\$11,300	\$11,591
Subtotal Section 4 Claims							
Pending, Beginning of Year	920	477	479	367	382	336	346
Claims Filed	1,335	1,325	1,193	1,351	1,283	1,303	1,306
Claims Approved	1,476	1,112	1,095	1,107	1,197	1,063	1,071
Total Value of Approvals	\$81,091	\$60,255	\$60,304	\$60,645	\$64,411	\$56,700	\$57,191
Section 5 Claims – Uranium Miners, Millers, and Ore Transporters							
Pending, Beginning of Year	163	145	141	134	93	118	113
Claims Filed	254	227	207	191	221	174	168
Claims Approved	192	141	129	146	191	109	130
Total Value of Approvals	\$19,200	\$14,200	\$12,900	\$14,700	\$19,100	\$10,822	\$13,000

**Radiation Exposure Compensation Act Workload
Claims Filed and Approved**
(Dollars in Thousands)

	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Estimate	FY 2021 Estimate
TOTAL (Section 4 Claims and Section 5 Claims)							
Pending, Beginning of Year	1,083	622	621	501	475	454	459
Claims Filed	1,589	1,552	1,400	1,542	1,504	1,477	1,474
Claims Approved	1,668	1,253	1,224	1,253	1,388	1,172	1,201
Claims Denied	382	300	295	299	267	300	304
Total Adjudications	2,050	1,553	1,519	1,552	1,655	1,472	1,505
Approval Rate	81%	81%	81%	81%	84%	80%	80%
Total Value of Approvals	\$100,291	\$74,455	\$73,204	\$75,345	\$83,511	\$67,522	\$70,191

Performance, Resources, and Strategies

The Program office is located in Washington, D.C. and is currently administered by a staff of five attorneys, six claims examiners, and seven contractors within the Constitutional and Specialized Torts Section of the Civil Division’s Torts Branch. The support staff reviews claim packages, assists claimants with their applications, and manages physical case files. RECA Program attorneys strive to fairly and efficiently process and resolve claims. Since its inception, the Program has generally far surpassed its goals for the timely processing and adjudication of claims.

a. Performance Plan and Report for Outcomes

The Civil Division is committed to upholding the rule of law and integrity in the proper administration of justice. The RECA Program directly supports the Civil Division in this goal. The Program’s primary objective is to implement civil justice reform initiatives to resolve categories of claims for which traditional litigation has proven ineffective and to administer 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 of claims, freeing the Program attorneys to maximize efficiency by concluding the adjudication and render 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 to 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.
- Conduct outreach by traveling to areas with populations of potential claimants and participating in roundtable discussions held by congressional delegations for their constituents.
- 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:

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

Strategic Goal: 4.1 – Uphold the Rule of Law and Integrity in the Proper Administration of Justice

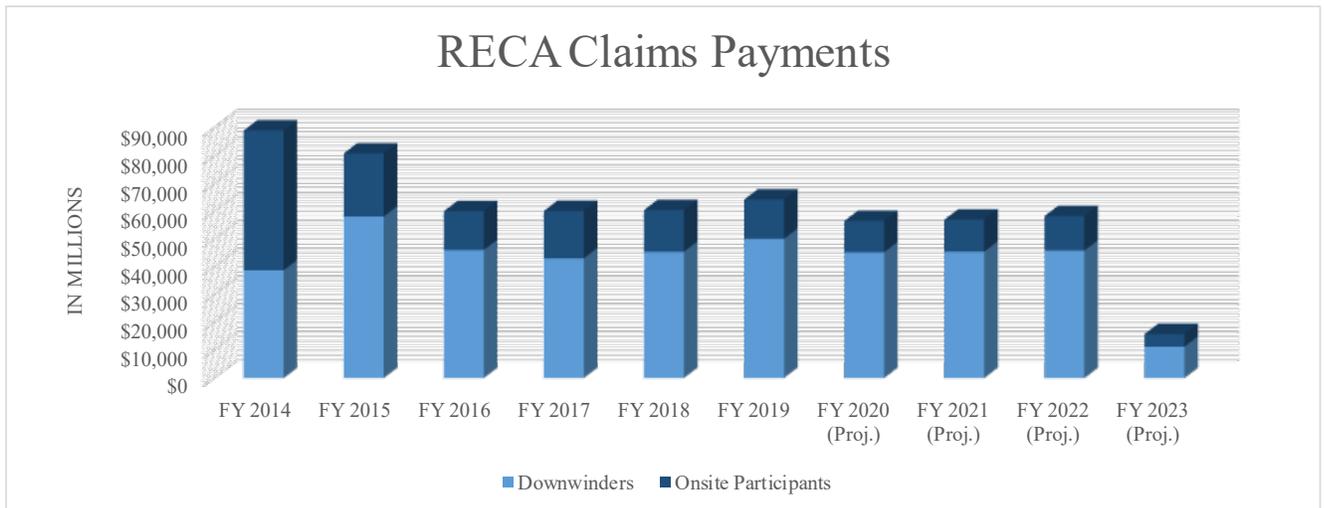
Program Increase: Positions 0 Atty 0 FTE 0 \$5,000,000

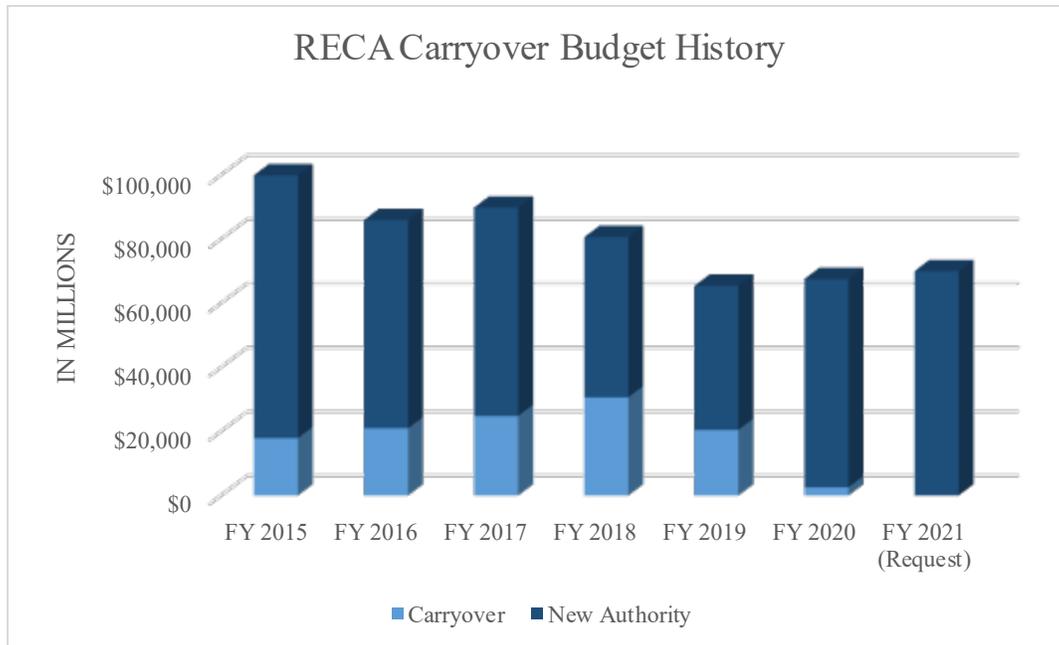
Description of Item

The Civil Division seeks a program increase of \$5,000,000 to pay Radiation Exposure Compensation Act (RECA) claims in Fiscal Year (FY) 2021.

Justification

Since FY 2016, the RECA program office has consistently seen annual Section 4 (Downwinders and Onsite Participants) award values of approximately \$60 million. Using Civil’s RECA liability model, which applies historical claims data and averages to determine future liabilities, the Civil Division anticipates future annual award values of \$65-70 million in FY 2020 through FY 2022. Currently new receipts reflect mild decline, and the Program has allocated resources to process additional pending claims at approval rates of approximately 80%. It is expected there will be a surge of claims during the last year of operations as the program approaches the statute of limitations, which will offset present reductions in pending claims and exhaust carryover balances. As a result, RECA will need a higher appropriated level of \$70 million.





Impact on Performance

The Civil Division is required by law to pay valid RECA claims. The requested new authority funding level in FY 2021 is required to pay the anticipated Section 4 claims.

Base Funding

<i>FY 2019 Enacted</i>				<i>FY 2020 Enacted</i>				<i>FY 2021 Current Services</i>			
Pos	Agt/Atty	FTE	\$(000)	Pos	Agt/Atty	FTE	\$(000)	Pos	Agt/Atty	FTE	\$(000)
0	0	0	\$45,000	0	0	0	\$65,000	0	0	0	\$65,000

Non-Personnel Increase/Reduction Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2021 Request (\$000)	FY 2022 Net Annualization (change from 2020) (\$000)	FY 2023 Net Annualization (change from 2021) (\$000)
RECA Claims	N/A	N/A	\$5,000	\$0	N/A
Total Non-Personnel	N/A	N/A	\$5,000	\$0	N/A

Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2022 Net Annualization (change from 2020) (\$000)	FY 2023 Net Annualization (change from 2021) (\$000)
Current Services	0	0	0	\$0	\$65,000	\$65,000	\$0	NA
Increases	0	0	0	\$0	\$5,000	\$5,000	\$0	N/A
Grand Total	0	0	0	\$0	\$70,000	\$70,000	\$0	N/A

VI. Program Decrease: Radiation Exposure Compensation Act (RECA) Claims

Not Applicable.