

# **Radiation Exposure Compensation Act Trust Fund**

**FY 2013 President's Budget**

**Civil Division**

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#Not Applicable

# Radiation Exposure Compensation Act Trust Fund

## Overview

On October 5, 1990, Congress passed the Radiation Exposure Compensation Act (“the Act” or “RECA”). The Act 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 atmospheric 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. This unique program was designed as an alternative to litigation in that the statutory criteria do not require claimants to establish causality. Specifically, if the claimant can satisfy the requirements outlined in the statute, which include demonstrating that he or she contracted a compensable disease after working or residing in a designated location for a specified period of time, he or she qualifies for compensation. Congress charged the Attorney General with responsibility for adjudicating claims under the Act.

“It is the purpose of this Act to establish a procedure to make partial restitution to the individuals... for the burdens they have borne for the Nation as a whole. ...The Congress apologizes on behalf of the Nation to the individuals... and their families for the hardships they have endured.”

***Radiation Exposure Compensation Act  
§§ 2(b) and (c)***

The Department of Justice established the Radiation Exposure Compensation Program (“the Program”) within the Civil Division. The Program commenced operations in April 1992. Since its inception, 35,163 claims have been filed and over \$1.64 billion has been awarded in connection with 24,883 approved claims (as of January 1, 2012).

## 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.**

The RECA Program Office (“the Office”) is located in Washington, D.C., and is administered by a staff of four attorneys, ten claims examiners, and five contractor employees within the Civil Division’s Torts Branch. The support staff reviews claims packages, assists claimants with their applications, and manages physical case files. The Civil Division strives to process and resolve claims fairly and efficiently and has far surpassed its goals for the timely processing and adjudication of claims.

## 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 were also engaged in nuclear weapons testing. 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 were eventually dismissed by the appellate courts. 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. Congress

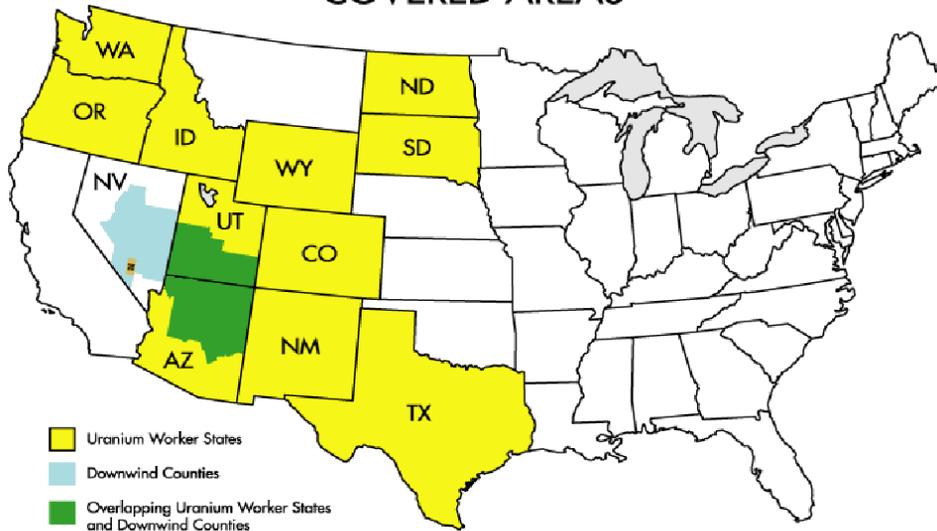
passed the Radiation Exposure Compensation Act on October 5, 1990, and later broadened the scope of the Act's coverage on July 10, 2000.

Department-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 person filing the claim.

The Act established monetary compensation for individuals who contracted specified diseases in three defined populations: uranium workers (uranium miners, millers, and ore transporters), who receive \$100,000; individuals present at test site locations (on-site participants), who receive \$75,000; and individuals who lived downwind of the Nevada Test Site (downwinders), who receive \$50,000.

The geographic areas covered by the Program relative to each claimant population are defined below:

## MAP OF RADIATION EXPOSURE COMPENSATION ACT COVERED AREAS



The Program has awarded compensation to individuals residing in every state as well as several foreign countries.

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

### Funding History

The RECA Trust Fund was subject to discretionary appropriations from FY 1992 to FY 2001. Following enactment of the 2000 Amendments, the appropriation became insufficient to meet the increase in 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. However, by 2003 the increased rate of new claim filings and approvals proved the caps to be inadequate, and a funding shortfall ensued. Working in close coordination, the appropriators and authorizers effectively devised 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 Section 4 claimants (downwinders and on-site participants).
- The National Defense Authorization Act for FY 2005 requires that RECA Section 5 claimants (uranium miners, millers, and ore transporters) be paid from the Energy Employees Occupational Illness Compensation Fund.

### **Outreach**

The Program regularly engages in outreach activities to educate relevant communities on the availability of compensation under the Act and the application process. During FY 2011, Program staff traveled to Salt Lake City, Utah and Prescott, Arizona to examine records, discuss potential sources of documentary evidence for establishing RECA's eligibility criteria for downwinder claimants, and conduct an informational town hall meeting. The Program also participated in the annual grantee meeting for the Radiation Exposure Screening and Education Program, which awarded eight grants to clinics in the rural Southwest to provide medical screening for RECA claimants. During FY 2012, Program staff met with tribal leaders on the Navajo Indian Reservation in Shiprock, New Mexico, and conducted training sessions for local caseworkers at the Office of Navajo Uranium Workers to assist tribal members in filing RECA claims.

Additionally, the Office implemented the RECA Native American Outreach Internship Program in FY 2011, which is expected to continue through April 2012. Its mission is to provide direct assistance to Native Americans. The Program found that trained students from the Four Corners region with cultural and linguistic ties to the Navajo and Hopi communities, can: (1) positively impact the approval rate of claims filed by individuals from the affected communities; (2) offer a more effective method for Cold War Patriots to seek the compensation they deserve; and (3) provide an opportunity for Native American students to experience meaningful work in government service. The Department recruited 27 Native American college and graduate students from the Southwest region to attend a two-week training session in Washington D.C. during the summer of 2010. The curriculum, developed by Program staff, included presentations about the history of the RECA Program; workshops on the claims application process, filing procedures, and interview techniques; and discussion sessions with Department leaders on Native American issues and government service. Upon returning to their communities, the students were provided with employment opportunities on the reservation. Since they began their fieldwork in July 2010, the students have reviewed over 150 potential new claims, 21 of which have been filed with the Program (11 were approved, three were denied, and the rest are pending), published eight articles in local papers, spoke at 58 community engagements, and hosted over 40 outreach meetings.

### **Proposed Legislation**

Legislation to amend RECA has been introduced in the current session (112<sup>th</sup>) of Congress.

- On April 12, 2011, the "RECA Amendments of 2011" (S.791) was reintroduced in the Senate and is currently residing with the Senate Judiciary Committee. This bill would greatly increase the claimant size and amounts awarded by the RECA Program. Specifically, the bill includes measures to expand the currently rural downwind affected areas to include the entire states of Arizona, Utah, and Nevada, as well as add New Mexico, Colorado, Idaho, and Montana. It also

seeks to equalize compensation for all claimants at an amount of \$150,000. These payments would be retroactive for claimants who have already been approved. New claimant classes would be added and affidavits would be permitted in lieu of documentary evidence to establish the Act's exposure requirements. Additionally, medical benefits would be available to RECA downwinder and on-site participant claimants. Lastly, the bill includes authorization for HHS to establish a grant program on the epidemiological impacts of uranium mining and milling. A companion bill (H.R.1490) was introduced in the House and is currently pending within various House subcommittees.

- On April 15, 2011, the "Mohave County Radiation Compensation Act of 2011" (H.R. 1608) was reintroduced in the House to include the county of Mohave, in the state of Arizona, as an affected downwinder area. Presently, it is residing within the House Subcommittee on Immigration Policy and Enforcement.

Current workload and funding projections do not account for the possible impact of any scientific studies or substantive statutory changes.

### **Claim Statistics**

Over the life of the Program, over 35,000 claims have been filed. This has resulted in 34,476 adjudications, which include 9,593 denials and 24,883 approvals, and reflects an approximate 72 percent approval rate. Total RECA awards over the life of the Program exceed \$1.64 billion (as of January 1, 2012). Approximately 149 new claims are filed each month. Of those claims that have been denied since 1992, only 12 claimants have sought review in federal district court. The Division estimates that approximately \$67,000,000 in approvals will be paid from the RECA Trust Fund in FY 2013.

A significant development occurred in November 2011, when the AARP published two articles related to atomic veterans and exposure to radiation. The articles infer that compensation is available for individuals who participated on-site in an above-ground nuclear weapons test conducted by the United States between 1945 and 1962, as well as for those who were part of the occupation forces at Hiroshima and Nagasaki during the same time period. While the Act covers individuals involved in on-site testing that occurred at the Nevada, Pacific, South Atlantic and Trinity Test Sites, Congress has not extended coverage under the Act to those individual who served in Japan. As a result, the Program has received thousands of telephone calls for information and requests for on-site participant claim forms. During the first quarter of FY 2012, the RECA Program received 690 new claims, 324 from on-site participant claimants. This is the largest number of claims filed in a single quarter since the third quarter of FY 2003. Currently, over 700 claims are pending, the highest it has been since 2009. The Program's work in reviewing these claims, identifying evidentiary deficiencies, and contacting claimants and partner agencies for additional information has increased dramatically. At the moment, the Office is monitoring and forecasting approval rates and potential award increases and believes that the flood of claims may impact award amounts during the second half of FY 2012.

## **Performance, Resources, and Strategies**

### **Performance Plan and Report for Outcomes**

The Radiation Exposure Compensation Program supports Goal 2 of the Department of Justice's Strategic Plan, specifically Objective 2.6: "Protect the federal fisc and defend the interests of the United States."

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.

### **Strategies to Accomplish Outcomes**

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

- Hire skilled claims examiners to conduct the initial review of claims, freeing the Program attorneys to conclude 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 in support of their claims.
- 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 review of claimant files to decide eligibility pursuant to the Energy Employees Occupational Illness Compensation Program Act.
- Brief Members of Congress and their staffs as requested; provide information to Members and the public in an open, timely, and complete manner.
- Coordinate with HHS' Radiation Exposure Screening and Education Program to assist grantees in providing relevant information on the RECA Program to individuals screened for disease in the affected geographic regions.
- 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 phone line and website to communicate with claimants and publish regularly updated statistical information on [data.gov](http://data.gov).

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

	<b>FY 2007 Actual</b>	<b>FY 2008 Actual</b>	<b>FY 2009 Actual</b>	<b>FY 2010 Actual</b>	<b>FY 2011 Actual</b>	<b>FY 2012 Estimate</b>	<b>FY 2013 Estimate</b>
<b>Section 4 Claims:</b>							
<b>Downwinders</b>							
Pending, Beginning of Year	1,093	424	366	297	213	286	340
Claims Filed	1,038	1,131	1,137	1,127	1,143	1,228	1,270
Claims Approved	1,360	985	1,053	1,035	1,019	1,032	1,175
Value of Approvals	\$68,000	\$49,250	\$52,650	\$51,750	\$50,950	\$51,600	\$58,750
<b>On-Site Participants</b>							
Pending, Beginning of Year	208	91	70	52	79	61	42
Claims Filed	148	158	191	248	240	955	280
Claims Approved	156	91	115	132	143	212	140
Value of Approvals	\$11,280	\$6,438	\$8,437	\$9,581	\$10,397	\$15,264	\$10,080
<b>Subtotal Section 4 Claims</b>							
Pending, Beginning of Year	1,301	515	436	349	292	347	310
Claims Filed	1,186	1,289	1,328	1,375	1,383	2,183	1,550
Claims Approved	1,516	1,076	1,168	1,167	1,162	1,244	1,315
Value of Approvals	\$79,280	\$55,688	\$61,087	\$61,331	\$61,347	\$66,864	\$68,830
<b>Section 5 Claims (Uranium Miners, Millers, and Ore Transporters)</b>							
Pending, Beginning of Year	760	294	205	216	172	152	160
Claims Filed	659	700	575	453	408	388	420
Claims Approved	748	486	332	296	302	272	295
Value of Approvals	\$74,776	\$48,600	\$33,200	\$29,600	\$30,200	\$27,200	\$29,500
<b>TOTAL</b>							
<b>Pending, Beginning of Yr</b>	<b>2,061</b>	<b>809</b>	<b>641</b>	<b>565</b>	<b>464</b>	<b>499</b>	<b>470</b>
<b>Claims Filed</b>	<b>1,845</b>	<b>1,989</b>	<b>1,903</b>	<b>1,828</b>	<b>1,791</b>	<b>2,571</b>	<b>1,970</b>
<b>Claims Approved</b>	<b>2,264</b>	<b>1,562</b>	<b>1,500</b>	<b>1,463</b>	<b>1,464</b>	<b>1,516</b>	<b>1,610</b>
<b>Claims Denied</b>	<b>833</b>	<b>597</b>	<b>482</b>	<b>467</b>	<b>353</b>	<b>495</b>	<b>490</b>
<i>Total Adjudications (Approved + Denied)</i>	<i>3,097</i>	<i>2,159</i>	<i>1,987</i>	<i>1,930</i>	<i>1,817</i>	<i>2,011</i>	<i>2,100</i>
<b>Approval Rate</b>	<b>73%</b>	<b>72%</b>	<b>76%</b>	<b>76%</b>	<b>81%</b>	<b>75%</b>	<b>77%</b>
<b>Value of Approvals</b>	<b>\$154,056</b>	<b>\$104,288</b>	<b>\$94,287</b>	<b>\$90,931</b>	<b>\$91,547</b>	<b>\$94,064</b>	<b>\$98,330</b>

**B: Summary of Requirements**

**Summary of Requirements**  
 Radiation Exposure Compensation  
 Payments to the Radiation Compensation Trust Fund  
 (Dollars in Thousands)

			Perm. Pos.	FTE	Amount																
<b>2011 Enacted (with Rescissions, direct only)</b>			<b>0</b>	<b>0</b>	<b>\$63,000</b>																
<b>2012 Enacted (without Rescissions, direct only)</b>					60,000																
2012 Rescissions					0																
<b>Total 2012 Enacted (with Rescissions)</b>			<b>0</b>	<b>0</b>	<b>60,000</b>																
<b>2013 Current Services</b>			<b>0</b>	<b>0</b>	<b>60,000</b>																
<b>2013 Total Request</b>			<b>0</b>	<b>0</b>	<b>60,000</b>																
2012 - 2013 Total Change			0	0	0																
Estimates by budget activity	2011 Appropriation Enacted w/ Rescissions			2012 Enacted			2013 Adjustments to Base and Technical Adjustments			2013 Current Services			2013 Increases			2013 Offsets			2013 Request		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Radiation Exposure Compensation Trust Fund	0	0	\$63,000			\$60,000	0	0	\$0	0	0	\$60,000	0	0	\$0	0	0	\$0	0	0	\$60,000

**D: Resources by DOJ Strategic Goal and Objective**

**Resources by Department of Justice Strategic Goal and Objective**

Radiation Exposure Compensation  
 Payments to the Radiation Compensation Trust Fund  
 (Dollars in Thousands)

Strategic Goal and Objective	2011 Appropriation Enacted w/ Rescissions		2012 Enacted		2013 Current Services		2013 Request	
	FTE	Amount \$000s	FTE	Amount \$000s	FTE	Amount \$000s	FTE	Amount \$000s
<b>Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law</b>								
2.6: Protect the federal fisc and defend the interests of the United States								
<b>Subtotal, Goal 2</b>	<b>0</b>	<b>\$63,000</b>	<b>0</b>	<b>\$60,000</b>	<b>0</b>	<b>\$60,000</b>	<b>0</b>	<b>\$60,000</b>
<b>GRAND TOTAL</b>	<b>0</b>	<b>\$63,000</b>	<b>0</b>	<b>\$60,000</b>	<b>0</b>	<b>\$60,000</b>	<b>0</b>	<b>\$60,000</b>

**F: Crosswalk of 2011 Availability**

**Crosswalk of 2011 Availability**  
 Radiation Exposure Compensation  
 Payments to the Radiation Compensation Trust Fund  
 (Dollars in Thousands)

Decision Unit	FY 2011 Enacted Without Rescissions			Rescissions			Reprogrammings/ Transfers			Carryover Amount			Recoveries Amount			2011 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Radiation Exposure Compensation Trust Fund	0	0	\$63,000	0	0	\$0	0	0	\$0	0	0	\$10,761	\$0	\$0	\$199	0	0	\$73,960

**G: Crosswalk of 2012 Availability**

**Crosswalk of 2012 Availability**  
 Radiation Exposure Compensation  
 Payments to the Radiation Compensation Trust Fund  
 (Dollars in Thousands)

Decision Unit	FY 2012 Enacted Without Rescissions			Rescissions			Reprogrammings/ Transfers			Carryover	Recoveries	2012 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Amount	Amount	Pos.	FTE	Amount
Activity/Program														
Radiation Exposure Compensation Trust Fund	0	0	\$60,000	0	0	\$0	0	0	\$0	\$12,018	\$0	0	0	\$72,018

**L: Summary of Requirements by Object Class**

**Summary of Requirements by Object Class**  
 Radiation Exposure Compensation  
 Payments to the Radiation Compensation Trust Fund  
 (Dollars in Thousands)

Object Classes	2011 Actuals		FY 2012 Estimate		2013 Request		Change	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
41.0 Grants, Subsidies and Contributions	0	\$61,942	0	\$60,000	0	\$60,000	0	\$0
Total obligations	0	61,942	0	60,000	0	60,000	0	0
Unobligated balance, start of year		<i>(10,761)</i>		<i>(12,018)</i>		<i>(12,018)</i>		
Unobligated balance, end of year		<i>12,018</i>		<i>12,018</i>		<i>12,018</i>		
Recoveries of prior year obligations		<i>(199)</i>		<i>0</i>		<i>0</i>		
Total Requirements		\$63,000		\$60,000		\$60,000		